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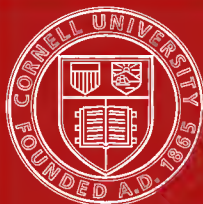
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Sketches of the bench and bar of Tennes



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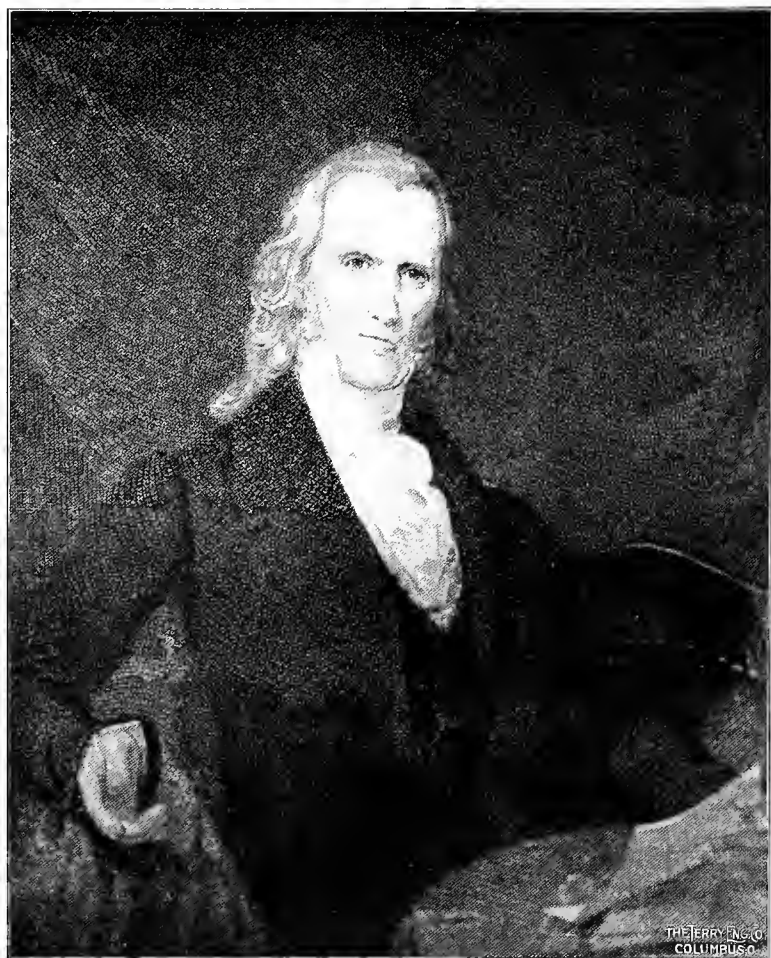
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HUGH L. WHITE.

SKETCHES
OF
The Bench and Bar
OF
TENNESSEE.

BY JOSHUA W. CALDWELL,
Author of the Constitutional History of Tennessee.

KNOXVILLE, TENN.:
OGDEN BROTHERS & CO., PRINTERS.
1898.

TO
THE FRIEND OF MY BOYHOOD AND
OF MY MANHOOD,
HUGH L. McCLUNG, Esq.,
OF THE KNOXVILLE BAR,
I DEDICATE THIS
BOOK.

PREFACE.

THIS book is intended to be a contribution to the history of Tennessee. It is also, in some measure, the outcome of professional pride. Its literary quality is not high. Many of the articles are of the kind to be found in encyclopedias—bare recitals of dates and facts. The labor devoted to the collection of material has been much greater than the Sketches indicate. It required six months to find when and where one of our greatest orators was born.

Repetition of facts and monotony of phrase could not be avoided. Above everything, accuracy has been sought, but after all, it is in respect of dates that the book is likely to prove most defective. The serious trouble encountered on this point will be shown by the statement that three different documents relating to one judge give each a different date for his death, and it is impossible to find which is right.

It was intended at first to include accounts of some of the prominent living lawyers, and several Sketches of that class had been prepared, but upon considera-

tion they are omitted. They may serve for a second edition, and as they are all appreciative, they might, in emergency, with slight additions of laudatory adjectives, serve as obituaries.

No doubt the choice of subjects for the Sketches will be criticised. There have been scores of lawyers in the State, in addition to those included, who should properly appear in such a book, but it has been impossible to secure the necessary material. The writer is much indebted to the Knoxville Tribune and the Nashville American for publishing many of these Sketches, and has pleasure in connecting with the book the names of W. C. Tatom, W. G. Ewing and Robert L. Burch.

SKETCHES OF THE BENCH AND BAR OF TENNESSEE.

CHAPTER I.

The Watauga Court—John Carter—Luke Bowyer—The Cumberland Notables—Early Washington County Courts—The Franklin Judges—The Territorial Judges—Joseph Anderson—John McNairy—David Campbell—Early Knox County Courts—The Superior Court and Its Judges—Howell Tatum—P. W. Humphreys—Samuel Powell—Andrew Jackson—Archibald Roane—William Cocke—John Cocke—Thomas H. Benton—Willie Blount—John Dickinson.

The beginnings of the Bench and of the Bar of Tennessee are found in the history of the Watauga Association.

The government of Watauga was intrusted to a committee of thirteen persons, who presumably held the power of legislation, while the executive and judicial functions were lodged in five commissioners or judges, chosen by the thirteen from their own number. It is not certain, but is probable, that the powers were so apportioned.

This commission of five was the first court, so far as we know, that ever met upon the soil of Tennessee. **John Carter** was at the head of the government. He was chief of the thirteen as well as of the

commission or court of five. He is thus in a sense entitled to be called the first Tennessee judge. An earnest effort has been made to trace the lineage of John Carter, but without satisfactory results. There seems to be no doubt that he was of the family of "King" Carter, of Virginia, though the chain of descent is not yet completely discovered. His son, who was one of the pioneers of Tennessee, and a man of distinction in early State history, bore the name Landon, which belonged to the "King" Carter family. John Carter was a Colonel in the North Carolina militia at a later time. It is to be inferred that he owed his prominence to superior education and to the social position of his family. This family was prominent throughout the early history of the State. Landon Carter held several high offices. William B. Carter, of the next generation, was president of the Constitutional Convention of 1834, and was for two terms a member of Congress, while a second William B. Carter, nephew of the first, was in the Constitutional Convention of 1870.

In 1776 the Watauga people united in a petition to the Provincial Congress of North Carolina for annexation to the State. In the list of signers is "Lew Bowyer, attorney." It is presumed that he was the same person mentioned below as Luke Bowyer.

Mr. Bowyer was State's Attorney for the Watauga Association in 1776, and probably before that time.

It is recorded that he was of a turbulent disposition, and was litigious in his own behalf. He followed the advance of population westward into Greene County, thence into Jefferson and Knox Counties, and then disappeared from our annals. It is lamentable but

true that on one occasion, at least, he was forced to endure the indignity of confinement in the stocks for profane swearing and contempt of court, to both of which he seems to have been somewhat addicted. Ephraim Dunlap, Esq., also appeared before the Watauga Court, and afterwards, in 1778, succeeded Bowyer as prosecuting attorney. Dunlap seems to have become prosecuting attorney before he had secured a law license.

The Watauga Court was the efficient administrator of prompt, though somewhat informal justice for about six years. Ramsey describes the government as patriarchal and simple, and there is no doubt that the procedure was in large measure free from the formalities and delays that ordinarily characterize the administration of justice. The Court exercised extraordinary jurisdiction at times, being compelled and fully justified by existing conditions. It assumed control of the property of Tories, and did not fear to assert jurisdiction in family affairs. It was especially severe upon horse thieves, a class of felons always held in extreme detestation in frontier communities.

The Anglo Saxon, including the Scotch-Irishman, or Covenanter, is always the friend of law and order, but not always of the lawyer. One of the alleged causes of the Tryon rebellion, in North Carolina, was discontent with the conduct of the lawyers. It is natural that the hard working people of the frontier should regard with disapproval a class exempt from the manual labor by which their neighbors subsist. In addition to this we must remember that conditions in Watauga were not, at first, such as to attract lawyers of eminence. The frontier lawyer is likely to be of

moderate fortune and capacity, and strenuously favorable to the increase of litigation.

Whatever the causes, it is a fact that the early settlers of Tennessee were not favorably disposed toward lawyers. This sentiment of disapproval was manifested in many ways.

The second important event in the history of Tennessee is the formation of the Cumberland Compact by the people of Nashborough, now Nashville, and a few neighboring settlements, in the year 1780. The leading spirit of these Cumberland settlements was James Robertson, who was not a lawyer, but the compact itself was manifestly drafted by a clerkly man, presumably a lawyer.

Under this compact the government was vested in twelve "Notables" chosen from the several settlements in fair proportion. There was no division of power as probably there had been in Watauga, but this one committee exercised all the functions of administration. Its head was James Robertson, who thus became a judge without being a lawyer. The "Notables," as a court, were invested with a general and ample jurisdiction, and their records which are preserved show that they tried many suits involving property rights. In 1783 the Cumberland settlement was made a county and called after the patriotic general, Davidson. In 1785 the Legislature of North Carolina provided for the election of a judge to hold a Superior Court of Law and Equity in the county of Davidson.

The first lawyers in Middle Tennessee were Edward Douglas and Thomas Molloy, who went to Nashville in 1786. At least this is Phelan's statement, but Prof. Clayton, in his history of Davidson County, has James Grubbins admitted to the bar in 1785.

At the first term of the Superior Court, which was held in 1789 by Judge McNairy, Andrew Jackson appeared as attorney for the State.

The third great event in our history is the formation of the State of Franklin in 1784. By this time the population had increased to about 25,000, white and black. Social conditions had changed much with the increase of population. The East Tennessee counties, feeling themselves deserted and aggrieved by the course of North Carolina in ceding the territory of Tennessee to the Confederation, conceived the plan of erecting another government of their own. They were not content with the rough and ready methods of Watauga, but entered upon an elaborate constitution making. The extraordinary and interesting document known as the Frankland Constitution, which was not adopted, was framed by school teachers and preachers. It is an instrument of pronounced morality and piety, and is of great historical importance as a proof of the state of public opinion at that time. It provided for a Legislature of a single house of representatives, and excluded therefrom all attorneys at law, as well as physicians and clergymen. No one will doubt that the lawyers opposed its adoption. Their influence, however, was not absolute, because the constitution was rejected by a very small majority. The lawyers had by this time become much more numerous than in 1772. That portion of the present State of Tennessee which belonged to North Carolina, had been made into Washington District by the Legislature of that State in the Spring of 1777, and into Washington County in November of that year. It was part of the Salisbury judicial district.

The first Court of Pleas and Quarter Sessions was held in February, 1778. John Carter was chairman, and John Sevier clerk. Allison relates that the first act of the Court was to fine John Sevier, Jr., for contempt. It is said, however, that the offense was not a serious one. It would appear from Mr. Allison's account that the Court had a much higher conception of its dignity than did the spectators and attorneys.

A Court of Oyer and Terminer and General Gaol Delivery was ordered for Washington and Sullivan Counties in 1782, the first session of which began August 15 of that year.

With the courts came lawyers. In October, 1779, the county of Sullivan was formed, and in April, 1783, the county of Greene, making more courts and creating greater need for lawyers.

While the State of Franklin had its beginning in 1784, it was not until December, 1785, that its Constitution, which was, in essentials, identical with that of North Carolina, was adopted.

Meanwhile, however, the State government, with John Sevier at its head, had been in active operation under the Constitution of North Carolina, provisionally retained.

The Legislature met in the Spring of 1785, and among other things, established a judiciary system borrowed from North Carolina. David Campbell was elected Judge of the Superior Court, and Joshua Gist and John Anderson, "assistant judges."

Throughout the history of Franklin, the most prominent figure after John Sevier was William Cocke, the first lawyer of distinction in the annals of Tennessee, a sketch of whom is given in this chapter.

It is well known that the career of Franklin was short and unfortunate. The repeal of the Cession Act of 1784, by North Carolina, occurred before the new State had been fully organized, and immediately defection began. In a little while there were rival courts in all the old counties, and while there was no bloodshed on this account, there were many undignified proceedings. The Franklin officers would invade the Carolina court house, expel the court and remove the records; soon afterward the Carolina officers would inflict a like indignity upon the Franklin court. Records thus seized were sometimes lost, to the serious detriment of the public. Before the downfall of Franklin, its chief justice, David Campbell, accepted a judgeship under North Carolina.

The fact should be stated that the dislike of lawyers was manifest in a provision of the rejected Frankland Constitution. The 37th section of that instrument provided a scheme of arbitration, which clearly was destined to obviate the need for lawyers. So far, however, as the profession was concerned it was a positive misfortune that this plan was not adopted. Unquestionably it would have been a most efficient promoter of litigation. This opposition to lawyers was continually displayed in our early history, and in fact, it has never entirely subsided. In the Constitutional Convention of 1834, Mr. Hodges, who represented Jefferson County, introduced a resolution in the following words: "That lawyers do the business of the justices of the different counties, gratis, as they are more capable to do this business. The fee of lawyers, as it is, is plenty high to do all those duties." The resolution was not adopted, and

one is led to infer that Mr. Hodges had been engaged in litigation, with unfortunate results.

On the 25th of February, 1790, North Carolina, by formal deed, conveyed that part of the territory of Tennessee which belonged to her to the United States. On April 2, Congress accepted the deed, and in the May following an Act was passed creating the "Territory of the United States South of the River Ohio," and providing a government for it. The provisions of the Act for the government of the Northwest Territory were extended to the new Territory, except the provision against slavery. One of the conditions of the deed was that this should not apply. A governor and three judges were appointed. The governor was William Blount, and associated with him as judges were David Campbell, Joseph Anderson and John McNairy. It may be well to recall the fact that under the Act of Congress, the governor and the judges were invested with all the powers of government until there should be five thousand voters in the Territory. For some cause unknown to the writer, Judge McNairy appears to have taken no part in the executive affairs, and to have fallen so completely out of view for awhile as not to be mentioned as one of the judges by some of our historians. The first seat of this unique government was the house of William Cobb, in the fork of the Holston and Watauga rivers. There Blount established himself on October 10, 1790.

Joseph Anderson, one of the Judges of the Superior Court of the Territory, was born near Philadelphia, Pa., November 5, 1757. His father was of German descent, but the family had been in America since 1656. Six of his sons, including Joseph, were officers

in the Continental army. Joseph received a good education and went through a course of law study. In 1775 he was appointed ensign in the New Jersey line of the Continental army. He was made First Lieutenant in November, 1776; Captain in October, 1777, and was regimental paymaster from that time till the end of the war. He was at Monmouth, Valley Forge and Yorktown, and retired at the end of the war with the rank of Brevet Major. For seven years he practiced law in Delaware. Mr. Doak says that he was appointed Chief Justice of our Territorial Court. This fact is not found elsewhere. It is certain that he was one of the Judges throughout the existence of the Territory. He was one of the trustees of Blount College and of Washington College. In the Constitutional Convention of 1796 he was a delegate from Jefferson County. He was a candidate before the first Legislature for the United States Senate, but failed of election, as he did also for a judgeship of the Superior Court. When the Legislature, in April, 1796, prematurely chose four presidential electors he was one of the number. When William Blount was expelled from the Senate, July 8, 1797, Judge Anderson was elected in his stead, and served continuously until 1815. In February, 1809, the Legislature not being in session, he was appointed by Gov. Sevier to fill the vacancy that would follow the expiration of his term, March 4, 1809. His right to the seat was not questioned, but at a later date, when a similar question was presented, the Senate declined to regard his case as a precedent. In April, 1809, he was formally elected by the Legislature, defeating Sevier by a vote of 23 to 16. Upon his retirement from the Senate, in 1815, he was appointed, by

President Madison, Comptroller of the United States Treasury, and served in that capacity till 1836. He died in 1837. Anderson County, in East Tennessee, is named for him.

A letter written by Gov. William Blount to James Robertson, September 3, 1791, contains the following: "Judge Anderson will be at your Court. I am highly pleased with him, both as a man and as a Judge; he has been a Major in the Continental service, continued to the end of the war, has supported since the character of a good citizen, is a gentleman and a learned judge, and a very agreeable and open companion."

The phrase, "open companion," is somewhat indefinite, but there can be no doubt that it was intended to be complimentary.

Judge Anderson was the father of Alexander Anderson, who was a Senator of the United States from Tennessee, and grandfather of David D. Anderson, of Knox County, who by virtue of descent from him is a member of the Order of the Cincinnati.

It is related by one of his descendants that at the end of his senatorial career he was offered a place in the Cabinet, but asked instead to be made Comptroller of the Treasury, as, according to the usages of that time, the position was practically held for life.

He is remembered as a devout man, of the most sincere but unostentatious piety. His sister, Margaret Anderson, married David Deaderick, and thus became the mother of the late Chief Justice, James W. Deaderick.

Diligent search has been made for the facts of **Judge McNairy's** life, but with the most unsatisfactory results. He was admitted to the bar of the Superior

Court of Washington District at Jonesboro, at the May term, 1788. He was licensed in North Carolina a short time previous to that date. In the same year he was appointed Judge of the Superior Court of North Carolina for the District of Mero.

He continued to be judge of the district until the Territory South of the River Ohio was formed, when he was appointed by President Washington to be one of the three territorial judges. Strangely enough there has been much doubt about this last fact in the minds of students of Tennessee history. Ramsey, Haywood and Phelan do not mention him as one of the Territorial judges, but on page 268 of Vol. 1, Number 3, of the American Historical Magazine (July, 1896) will be found the reproduction of an account sworn to on April 2, 1792, by Brigadier-General James Robertson before Judge McNairy, "one of the judges of the ceded Territory South of the River Ohio." The fact that the entire administration of the Territory seems to have fallen upon Governor Blount and Judges Campbell and Anderson cannot be explained except upon the theory that Nashville was so remote from the seat of government at Knoxville that it was inconvenient for Judge McNairy to perform any other than purely judicial functions. Under the Act of Congress the governor and judges, or a majority of them, were authorized to adopt and publish in the Territory such laws as were necessary, and the territorial Acts were not in any instance signed by Judge McNairy, but always by the Governor and by Judges Anderson and Campbell.

In the Constitutional Convention of 1796, McNairy represented Davidson County. On February 20,

1797, he was appointed United States District Judge for Tennessee. The Act making the State a judicial district was passed by the Fifth Congress, January 31, 1797.

The first session of the Court was held at Nashville, beginning on July 3, 1797, on which day Judge McNairy produced his commission and was sworn in by Archibald Roane, Judge of the Superior Court of Tennessee. Thomas Gray qualified as United States Attorney and appointed Henry Brazeale his deputy.

Judge McNairy continued in office until 1834, when he retired. He died in 1837, having been a judge for forty-six years. He had very little to do with politics, and his office naturally prevented an active participation in affairs; so that his life was dignified and useful rather than conspicuous. He was one of the trustees of Davidson Academy, and the minutes of the Board prove that he was actively interested in that institution. He became a trustee by the consolidation of Davidson Academy and the Federal Seminary, a rival school. On February 25, 1801, he was one of the committee "to rent lands, complete contracts and sell rails." That he was not above attending to small affairs further appears from the following, which is taken from Putnam's History of Middle Tennessee: "Mr. William T. Lewis had been associated with Judge McNairy in the Federal Seminary movement. As there was a matter of a little delicacy between the old board and Mr. Lewis about the 'east field,' the matter of settlement was committed to the Hon. John McNairy, Judge of the United States Court, and he obtained the corn and pumpkins."

Judge McNairy resigned this trusteeship in 1804.

In the year 1798 he was engaged in an unpleasant controversy with General Jackson. It seems that McNairy had favored the removal of James Robertson from the Chickasaw Indian Agency, which involved the loss of a clerkship to one of Jackson's friends. Jackson became enraged and expressed himself in a way that made a permanent breach between himself and McNairy.

No record of the birth of Judge **David Campbell** has been found. He was the Chief Justice of the State of Franklin, and was one of the Commissioners sent by Sevier to the Governor of North Carolina seeking an adjustment between the two States. Some time before Sevier was willing to submit to the restored authority of North Carolina, Campbell accepted the judgeship of the Superior Court of that State for Washington District, and held Court at Jonesboro in February, 1788, but when called upon to issue a bench warrant for the arrest of Sevier, he refused, and the warrant was issued by Judge Samuel Spencer. He was a judge of the Territorial Court so long as that Court existed, and a judge of the Superior Court of Tennessee from October, 11, 1797, until 1807. He was impeached in 1803, while Superior Judge, upon the charge of receiving a bribe from a litigant, but was acquitted by the Senate by a vote of nine to three. The specific charge was that he had received a bribe of fifty dollars for which he had agreed to secure a favorable decision of a lawsuit. He was prosecuted by Jenkin Whiteside, on behalf of the House of Representatives, and was defended by Edward Scott, John Williams and Robert Whyte.

Phelan intimates that the acquittal was procured by

the friends of Jackson, for fear that a conviction might be favorable to Sevier and injurious to Jackson. This occurred during the bitter contest of 1803 between these two leaders. The account given in Goodspeed's History of Tennessee is not altogether favorable to Judge Campbell. Phelan states in a foot-note that Campbell never recovered from this affair, and that when, in 1809, he and James Trimble were candidates for the judgeship of the Second Circuit, Trimble was unanimously nominated on the first ballot. In 1810 or 1811, Campbell was appointed by the President one of the Judges for the Mississippi Territory, and died there in 1812. No data have been found for an opinion as to his guilt or innocence of the charge on which he was impeached. There seems to be no doubt that he lost popular favor and, it may be, confidence, but upon the other hand he was acquitted and was afterwards appointed to a place of honor and trust. The weight of the evidence seems to be in his favor.

When the Territory South of the River Ohio was established, all East Tennessee was the Washington District, and the Middle Tennessee counties, to-wit: Davidson, Sumner and Tennessee, were the Mero District.

In 1792 the Governor transferred the seat of government to White's Fort, now Knoxville.

The population of Knoxville was at this time about 250. The first session of the Court of Pleas and Quarter Sessions for Knox County was held July 16, 1792.

It was composed of five justices, James White being the chairman. The following lawyers were admitted to practice: Luke (Lew?) Bowyer, Alexander Outlaw, Joseph Hamilton, Archibald Roane, Hopkins Lacy,

John Rhea and James Reese. An event of this term was the protest of the Sheriff, Robert Houston, against the county jail. Commissioners were appointed to contract for the building of a new jail. "Its dimensions were to be sixteen feet square; the logs to be one foot square, the lower floor to be laid of logs of that size to be laid double and cross-wise; the loft to be laid also of logs, and covered cross-wise with oak plank one and a half inches thick and well spiked down." The same commission was to contract for a courthouse, which was afterwards built in the same style of architecture, but with less massive material.

The **John Rhea** here mentioned, was afterwards prominent in public affairs. He was the oldest son of a Scotch-Irish Presbyterian minister, and was born in Ireland. The family came to America in 1769, and to East Tennessee in 1778. John Rhea probably graduated at Princeton in 1780. His descendants have claimed this, and the records of the College show that a John Rhea graduated at the date here given. There is some doubt whether or not he was the person named, because he was certainly at the battle of King's Mountain in October, 1780. He was a delegate from Sullivan County to the Constitutional Convention of 1796, and was one of the committee that drafted the Constitution. After Tennessee was admitted to the Union, he was for eighteen years a member of Congress, and was the intermediary between General Jackson and the President in the memorable correspondence preceding the war in Florida. He was the grand-uncle of Cornelius E. Lucky, who is now one of the prominent lawyers at the bar of East Tennessee. He was a man of ability and of high character.

North Carolina gave to Tennessee the Superior Court, which was one of general law and equity jurisdiction, and of final resort. The following is a list of the judges who served before 1815 on this Court, one for each district; the Hamilton District, composed at first of Knox and Jefferson Counties, having been created in 1793 by the territorial government.

Under the Act of April, 1796, establishing the Superior Court, John McNairy, Archibald Roane and Willie Blount were elected judges. Blount declined, and W. C. C. Claiborne was appointed in his stead September 2, 1796. McNairy resigned to accept the Federal Judgeship, and Howell Tatum was appointed in May, 1797, to succeed him.

David Campbell served from October, 1797 to 1807; Andrew Jackson, from September, 1798 to 1804; Samuel Powell, from October, 1807 to 1809; John Overton, from 1804 to 1809; Parry W. Humphreys, from October, 1807 to 1809; Hugh L. White, from September, 1801 to 1807; Thomas Emmerson, from 1807 to 1809. Of some of these judges almost nothing has been found.

Howell Tatum was from North Carolina. His name appears sometimes as Tatom, and it is presumed that it is the same as Tatham. Howell Tatum is mentioned as an Ensign in the First North Carolina Regiment of the Continental line in 1775.

He was Attorney General for the Mero District from 1796 to 1797, when he went upon the bench of the Superior Court. From 1794 to 1796 he had been Treasurer of the Mero District. He also held the office of Commissioner of Land Claims.

Thomas Emmerson, in addition to serving on the

Superior bench from 1807 to 1809, was a judge of the Supreme Court from 1819 to 1822, and judge of the First Circuit from 1816 to 1819. He was the first Mayor of Knoxville. From 1832 to 1837 he edited, at Jonesboro, the "Washington Republican and Farmer's Journal," an anti-Jackson paper. For the first three years the late S. J. W. Luckey was his associate in this enterprise.

Parry W. Humphreys, who served on the Superior Court from 1807 to 1809, was judge of the Fifth Circuit from 1809 to 1813, and again from 1818 to 1836; was a member of Congress from 1813 to 1815; was one of the pioneers of Middle Tennessee, and resided in Montgomery County. In 1817 he was a candidate for the United States Senate, and was defeated by John H. Eaton by a majority of two votes. In 1836 he removed from Tennessee to Northern Mississippi in search of health, and at the time of his death, January 19, 1839, was president of the Bank of Hernando. He was the father of Judge West H. Humphreys.

Samuel Powell, of Rogersville, was on the Superior Court from 1807 to 1809; was judge of the First Circuit from 1812 to 1813, and again from 1819 to 1836. He was in Congress from 1815 to 1817.

Andrew Jackson was admitted to the bar of Tennessee in 1788 at Jonesboro. He represented Davidson County in the Constitutional Convention of 1796, and on the admission of the State to the Union, was elected our first Representative in Congress. He served on the Superior Court from 1798 to 1804; was Senator of the United States from October 19, 1797, to October 6, 1798, when he resigned. He was again elected Senator in 1823, becoming a candidate to

defeat Col. John Williams, and having accomplished his purpose, resigned in 1825, and was succeeded by Hugh L. White. No opinions of his are preserved.* He was an efficient judge without being a learned one. The events of his life are too well known to be repeated here, and the anecdotes relating to his peculiarities, both real and unreal, are household properties throughout the State.

By an Act of the Legislature, passed in November, 1809, the Superior Court was abolished, and a Supreme Court of Errors and Appeals, and five Circuit Courts of Law and Equity established. The salary of a circuit judge was one thousand dollars a year.

The Circuit Court had jurisdiction of all cases at law and in equity, formerly triable in the Superior Courts, concurrent jurisdiction with Courts of Pleas and Quarter Sessions, and appellate jurisdiction in cases tried in Courts of Pleas and Quarter Sessions. The judges of the Supreme Court down to the year 1815 were Hugh L. White, from 1809 to 1815; George W. Campbell, from 1809 to 1811; John Overton, from 1811 to 1816, and Archibald Roane, from 1815 to 1818. W. W. Cooke served from October 19, 1815, to 1816. The salary of the judges of this Court was fifteen hundred dollars a year. The jurisdiction of the Court was purely appellate, and opinions on material points were required to be in writing.†

These Courts will be further considered in a subsequent chapter.

*Since this brief notice of General Jackson was prepared, the writer has been told that an opinion, written by him, exists among the old papers in the courthouse at Elizabethton, but the document is not accessible.

† Acts 1809, Chap. 49.

Brief sketches of these judges and of some of the more prominent lawyers who practiced in Tennessee in 1815, and before that time, will now be presented. They will be meagre and unsatisfactory. The preparation of them has involved an amount of labor wholly disproportionate to the results. As to White, Grundy, Haywood and Overton, the material is abundant and trustworthy, though scattered. But in preparing the other sketches now to be submitted, it has been necessary to examine all the histories of Tennessee, and many histories of North Carolina, Virginia and Kentucky, to say nothing of encyclopedias, pamphlets and persons.

Archibald Roane was born in Lancaster County, Pennsylvania, in 1760, and was thoroughly educated. He appears to have been admitted to the bar at Jonesboro and at Greeneville in 1788. He was made the territorial Attorney-General for the district of Hamilton, which comprised originally the counties of Knox and Jefferson. He was a delegate to the Constitutional Convention of 1796 from Jefferson County, and was one of the first three judges of the Superior Court of the State, the others being John McNairy and Willie Blount. In 1801, when Sevier had served as Governor as many consecutive terms as the Constitution permitted, Roane was elected to the office, becoming thus the second Governor of the State. He was naturally ambitious to succeed himself, but Sevier being again eligible, entered the field against him, and after a most acrimonious contest, Roane suffered the mortification of a defeat by a vote of 6,786 to 4,923. While he was Governor, the office of Major-General of the militia became vacant, and was eagerly sought by Andrew

Jackson and by John Sevier. Between these two popular heroes a bitter antagonism had arisen. Indeed the new State was too small to hold two such able and ambitious aspirants for leadership. The electors of the Major-General were the field officers of the militia, and in this case they were evenly divided, and the law gave the deciding vote to the Governor. He voted for Jackson, and it is not to be doubted that this was one of the principal causes of Sevier's candidacy at the next election. It is said that Roane denounced Sevier bitterly during the canvass, and it is well known that at this time, very injurious charges were made against Sevier. A letter from Roane to Winchester, containing a threat to denounce Sevier as dishonest, is preserved, but the character of Roane, as it comes down to us, is not of a kind to support the belief that he actually engaged in personal vituperation. All accounts make Roane a scholarly man, fond of literature, deeply learned in the classics, of affable manners, though dignified, and liable to fits of abstraction. He was probably the most cultured man of his time in Tennessee, with the exception of Haywood, and possibly Grundy. But these qualities, while they could not fail to command respect, were not the best calculated to win popularity in a frontier community. It is not the thoughtful, scholarly, scrupulous thinker who is best adapted to such conditions, but the full-blooded, determined man of action, the partisan, who is always for his own side. Roane was unequally matched against the dashing Indian fighter, the inveterate handshaker, the lavishly hospitable Sevier, who for twenty years had held, and in truth deserved, the first place in the hearts of the people. It is a fact of interest that

Roane was at one time the tutor of Hugh Lawson White. From 1811 to 1815, he was judge of the Second Circuit. In 1815 he was made one of the judges of the Supreme Court of Errors and Appeals, and served until his death in 1818.

The fact that his career was so successful affords proof that even in that strenuous time our fathers esteemed learning and culture, and were pleased to honor them. He seems to have been wholly lacking in the qualities that made Sevier and Jackson and Robertson leaders, and to have owed his prominence entirely to his intellectual gifts and acquirements, and to his personal worth.

There are some interesting old statutes of Tennessee regulating lawyers. The Act of December 20, 1798, required applicants for law license to be examined by two or more judges of the Superior Court, and to "possess a competent share of law knowledge." This is still the theory of the law. Lawyers from other States were admitted upon vouchers of persons of veracity. At one time they were required to reside a year in the State as a condition of the right to practice. By an Act passed in 1815, licensed attorneys of other States were admitted to practice in Tennessee only after examination by two judges.

Chapter 61 of the Acts of 1817 provided for the disbarment of lawyers for five years for gaming, but the Act did not extend to shooting matches or to playing on licensed billiard tables.

A North Carolina Statute, passed in 1786, may be mentioned in this connection as further showing the feeling against lawyers referred to above. The second section of the Act provides that: "Whereas, the fre-

quent abuses of attorneys have occasioned distress to many of the good people of this State, it shall not be lawful for either plaintiff or defendant to employ, in any matter or suit whatever, more than one attorney to speak to any suit in court."

A subsequent section fixes the fees of counsel, making the maximum ten pounds, and declaring it an indictable offense to ask, take or receive, directly or indirectly, a larger fee than that allowed by the Statute.

Chapter 7 of the Acts of the Tennessee Legislature of 1796 makes the maximum fee twelve dollars and a half. The language of the North Carolina Statute seems to imply that the fee there provided is not simply a tax fee, but the full amount of compensation.

In a Tennessee case of *Newman vs. Washington*, (Martin & Yerger, 79), decided in 1827, it was contended that such was the law in Tennessee, and that the attorney was entitled only to the tax fee provided by the Act. In that case the lawyer sued for his fee and recovered \$315.00. Under the Statute his fee would have been two dollars and fifty cents, and his client's principal defense was that an attorney could recover only the tax fee.

The client further invoked in his defense the fine old English doctrine that: "The profession of the law is of an honorable character, and services rendered by its professors are gratuitous." Crabb J., delivering the opinion said: "The law in England is certainly as contended for, both in relation to counsellors and physicians. But the doctrine has not prevailed in this State in regard to either."

The two professions are much indebted to Judge Crabb.

The art most prized and most practiced in East Tennessee is oratory. So deeply ingrained into the East Tennessee character is the love of public speech that it is an unusual thing to find a native of that section who is not at all times ready to address his fellow citizens. Politics and polemic theology are the favorite themes, but no subjects are excluded. Probably the most active debating societies in the world are the County Courts of East Tennessee. The quality of this oratory as to form and as to substance is not despicable, though not always above criticism.

Speaking seriously, the gift of speech belongs, in an extraordinary degree, to even the uneducated people of East Tennessee, and there is no place where the orator's voice is more potent, or the orator's genius more admired, than in East Tennessee. To succeed there in public life one must be a speaker. The aspirant for popular favor may do many things that he ought not to do, and may leave undone many things that he ought to do, but one thing he must do, he must speak. It is the universal opinion, especially in the back counties, that no man is "smart" who cannot "make a speech." Almost without exception the prominent men of the section have been gifted speakers, as for example, Horace Maynard, Andrew Johnson, Nathaniel G. Taylor, Landon C. Haynes, John H. Crozier, Thomas A. R. Nelson, William G. Brownlow, Spencer Jarnagin, Hugh L. White. In later times, Robert L. Taylor and L. C. Houk have represented the most popular and effective qualities of stump-speaking.

The first great orator of East Tennessee was **William Cocke**. He was one of the popular heroes of his time, and many stories are told of him. He is described as a tall, black-haired, black-eyed man, of splendid physique, fiery, enthusiastic and fearless. He came of English stock, as we shall see, but one cannot help believing that there was a strain of Celtic blood in his veins to account for his sentiment and enthusiasm and his fervidness of speech. He was a descendant of the fourth generation, of one Richard Cocke, who came to Virginia from Devonshire, England, in 1632. He was born in Amelia County, Virginia, in 1748. William Goodrich, of Philadelphia, whose paper in the third number of the American Historical Magazine is the most valuable publication on the life of William Cocke that has been made, states that when Cocke was twenty-seven years of age, the Revolution being imminent, he was offered by Lord Dunmore, the Colonial Governor of Virginia, any office in the army below that of Commander-in-Chief, provided he would espouse the cause of the Crown against the Colonies. He replied, it is said, that the King did not have money enough to buy him, that the cause of the Colonies was just, and that he would devote his life to it. It is to be hoped that this pleasing story is true, and there is no reason to doubt it. Cocke was an officer of the Provincial Militia, and no doubt had distinguished himself, and it is known that he was a bold man and a sincere patriot. Mr. Goodrich further says that before this occurred, he had accompanied Daniel Boone on an exploring expedition into Eastern Tennessee and Western Kentucky. But the facts seem to be, that at some time after 1775,

Cocke was employed by Richard Henderson to aid in establishing settlers in Transylvania, and was thus brought into contact with Boone, and made a long, solitary and dangerous journey into Kentucky.

Of his career from this time till the Autumn of 1780, not much is known. He was a leading spirit among the settlers, and was greatly esteemed for ability and courage. He was in the King's Mountain campaign, and served with credit.

In the establishment of the State of Franklin he was one of the leaders, and was next to Sevier in prominence and influence. He, probably, was in all its conventions, and was opposed to the Houston Constitution. There is some doubt as to whether it was he or Sevier who finally proposed the adoption of the North Carolina Constitution. In civil affairs he was probably more skilful than Sevier, and was certainly the better speaker and debater. In the effort to treat with North Carolina, he and David Campbell were the representatives of the State of Franklin. Campbell was injured by an accident, and Cocke appeared alone before the Carolina Legislature and delivered a long, impassioned and forcible, but ineffective speech. It was he who carried to Philadelphia the memorial of Franklin asking for recognition as a State, and on all occasions that demanded special ability, he was spokesman. He was Sevier's most trusted and valued adviser, and was steadfastly loyal to him, unless we regard his short candidacy for Governor in 1807 as an act of disloyalty. In the Constitutional Convention of 1796 he represented Hawkins County, and was an active and influential participant in all the proceedings. It was he who gave to the famous town-lot tax clause its final

form. He and William Blount were the first Senators of the United States from Tennessee, and having served out the short term, he was again elected in 1799 and served till 1805. In 1797 a new county was established and named for him.

In 1809 he was elected Judge of the First Circuit, a position to which he was not adapted. The only unfortunate events in his history were caused by his acceptance of this office. The political leader is accustomed to defer largely to the wishes of his friends, and to carry this habit wherever he goes. The popular orator seldom has the habits of self control and laborious investigation that are conditions of success at the bar and of efficiency on the bench. There was no other public station to which, by temperament and habits, Cocke was so little adapted. It was in the interval between his retirement from the Senate and his election to the bench that he announced himself a candidate for Governor. He withdrew, however, before the election, and it was then charged that he had been acting in concert with Sevier for the purpose of deterring others from entering the race. This accusation he denied in a vigorous open letter, and no proof was made against him.

Leaving Tennessee in 1812, he went to Mississippi, and there, though well advanced in years, displayed the same qualities that had made him already conspicuous successively in three States. He was elected to the Legislature, and in 1814 was appointed by President Madison agent for the Chickasaw Indians. At the age of sixty-five he volunteered for the war of 1812, and served with so much efficiency and gallantry as to win the hearty commendation of General Jackson. He died

at Columbus, Mississippi, August 22, 1828. The State of Mississippi erected a monument to his memory, inscribing upon it a brief and eulogistic account of his life.

His career was a remarkable one. Like a number of other able men of that time, he moved westward again and again in the vanguard of civilization, and took part in the organization of State after State. He served in the Legislature of Virginia, North Carolina, Tennessee and Mississippi; was a Judge, twice a Senator, and was a gallant soldier in our two wars with England.

He is remembered in Tennessee as the great orator of his time, and by consent of his contemporaries, he had no equal as a popular speaker. A remarkable readiness and brilliancy of speech has been a characteristic of his family in all succeeding generations, and his descendants have filled acceptably many places of honor and trust, and have rendered valuable services to the State and to the Nation. We have special cause to be grateful to him as the friend of the schools. He was one of the most active advocates of the establishment of Blount College, and was the zealous supporter of every movement in behalf of education. We can afford to remember him only as the amiable and accomplished gentleman, the great orator, the sincere and steadfast patriot, and the gallant soldier of liberty.

John Cocke, son of General William Cocke, was born in Nottoway County, Virginia, in 1772, and died in Rutledge, Grainger County, Tennessee, February 16, 1854.

He studied law and was admitted to the bar, but his life was too much devoted to other pursuits to allow

him to become eminent in the profession. He was a member of the lower house of the first Legislature of Tennessee, and served in that branch of the Assembly six different terms, and was twice Speaker, first in 1812, and again in 1837. He was elected twice from Hawkins County and four times from Grainger County. He was also Senator from Grainger County in the third General Assembly, that of 1799.

When the six months' volunteers were organized in Tennessee in 1813, he was Major-General for East Tennessee, and commanded them in the Creek war. In 1819 he was elected to Congress and served continuously for four terms. Retiring from public life, he passed the remainder of his days upon his farm. Parton, in his *Life of Jackson*, refers to him as "General John Cocke of East Tennessee, a gallant and worthy gentleman, much calumniated in the histories of this period." The facts thus referred to arose out of General Cocke's connection with the Creek war. There seems to be no doubt that General Cocke was much misrepresented and very unjustly treated. So gross were the indignities put upon him by Jackson, that he demanded that the matter be submitted to a court martial, which acquitted him. The verdict of history ought to be that Cocke came out of the affair with more credit than did Jackson. There can be no doubt that he earnestly desired and strenuously endeavored to carry out all his orders from Jackson. The circumstances which prevented efficient co-operation were wholly fortuitous and beyond his control, and Jackson who was frequently unreasonable, was especially so during the Creek war, on account of sickness and constant anxiety.

General Cocke is entitled to the lasting gratitude of the people of East Tennessee and of the whole State, because it is to him that we owe the existence of the Deaf and Dumb School at Knoxville.

Another distinguished man who was for awhile a member of the bar of Tennessee, but whose history, like that of Andrew Jackson, is too well known to be recited here was **Thomas Hart Benton**. He was in fact hardly identified with Tennessee. His public career began in this State, but he was essentially a Westerner, and not a Southerner.

He was born in Orange County, North Carolina, March 14, 1782. His father was a lawyer of fair standing, and his mother a Virginia woman of good family.

He was for a time at the University of North Carolina, but did not graduate, as his mother, after his father's death, which occurred before Benton completed his college course, brought her family to Tennessee, settling near Nashville. Nevertheless Benton, with his keen and strong intellect and great ambition, continued his studies, and as Roosevelt says, became a cultivated, and even a learned man. He was admitted to the bar at Nashville in 1806, and began the practice at Franklin, Williamson County. His abilities were such that he could not fail to be prominent in any field of intellectual work, and there can be no doubt that if he had been inclined to devote himself to the law he would have attained eminence in the profession. His inclinations, however, were toward politics, and in 1811 he was elected to the Legislature. The judiciary system of the State was, at this time, undergoing reformation, and Benton seems to have interested him-

self actively and intelligently in the reforms. Roosevelt states that he introduced and secured the passage of a bill giving negroes the full benefit of trial by jury. The Army Register of the United States makes Benton Lieutenant-Colonel of the 39th U. S. Infantry, which was commanded by Col. John Williams. He held this commission from June 18, 1813, to January 15, 1815. From December, 1812, to April, 1813, he had been Colonel of Tennessee Militia. Shortly after the close of the war of 1812, he removed to Missouri, which was his domicile thenceforth. It is surmised that his difficulty with Jackson was the cause of his emigration.

It is not probable that personally he was afraid of Jackson, but at that time the hero of New Orleans had grown to such proportions that Tennessee was no place for a man whose pride and ambition could not be satisfied with any position except the foremost.

Willie Blount, the younger half-brother of William Blount, was born in Bertie County, North Carolina, in 1767, according to one authority, and in 1768 according to another. He followed his brother to Tennessee, and was for a time one of his secretaries. While still under thirty years of age he was elected one of the judges of the Superior Court of the State, but declined the office. He was elected Governor in 1809, and re-elected in 1811 and in 1813, serving during the entire period of our second war with England. He was a trustee of Blount College and of Cumberland College, and was a member of the Legislature. During his administration the Creek war occurred, and by his course in regard to it he won wide reputation and popularity. By his personal efforts, and, it is said, on his own responsibility, he raised \$370,000 for Jackson,

for which he was thanked by the President and three Secretaries of War.

By his vigorous prosecution of this war, and his zealous patriotism in the war of 1812, he attracted favorable attention throughout the country. Probably no Governor of Tennessee has been more generally or more favorably known among his contemporaries. He was an enthusiastic admirer and close friend of Andrew Jackson, by whom the good will was returned. Their cordial relations were never disturbed. Soon after the battle of New Orleans, Jackson wrote to Blount, with his own hand, a brief account of it. At a grand banquet at Nashville, May 22, 1815, Blount presented to Jackson a sword which had been voted him by the Legislature of Mississippi for his services in the Creek war.

The policy of public improvements upon which Tennessee entered fifty years ago, was earnestly promoted by Governor Blount. In 1811 he laid before the Legislature an internal improvement Act of New York, which probably as much as anything else inspired our policy. When the Constitutional Convention of 1834 met, he was a delegate to it from Montgomery County, and on various occasions urged upon that body the importance of increased facilities of travel and transportation. That the results of the adoption of this policy were unfortunate cannot be attributed to a want of judgment on his part. In the destruction of values, and the overthrow of our industrial system by the great civil war, must be found the real cause of our financial troubles. Governor Blount's purpose was patriotic, and but for the war it is altogether prob-

able that events would have approved the soundness of his policy.

In 1827 he was a candidate for Governor against Sam Houston, and was badly defeated. His services, however, were not forgotten, and when he died the Legislature voted him a monument, to be erected at Clarksville. He was a good man, of fair abilities and worthy purposes; his services were of substantial value to the State and to the Nation, and he should be remembered gratefully and in honor. He died September 10, 1835.

One of the most interesting men in the early history of the Nashville bar was **John Dickinson**. He was a native of New England, born in Charlestown, New Hampshire, December 17, 1781. He was an alumnus of Dartmouth, and after leaving college came to Knoxville, where he taught school for two years. He then moved to Nashville, where he studied law under Judge Overton, and also under Judge McNairy. When he came to the bar he was immediately successful, and acquired an enviable reputation. He is said by his contemporaries to have been one of the most brilliant and capable among the noteworthy lawyers of that period. He died in 1815, much regretted, and leaving a reputation such as few lawyers of the State have earned in so short a time. He was unfortunate enough at one time to become involved in a duel with a brother of Judge Overton, whom he wounded, coming off himself unhurt. This affair does not seem to have impaired his standing or popularity. It is not recorded that he held any office, but by all accounts he was a man of winning personality and extraordinary gifts.

CHAPTER II.

John Haywood—John Williams—Thomas L. Williams—Jenkin Whiteside—Felix Grundy—W. C. C. Claiborne—W. W. Cooke—Robert Whyte—Jacob Peck—Pleasant M. Miller—Alexander Outlaw.

In a very appreciative and excellent sketch of Judge **John Haywood**, prefixed to the reprint of his "Civil and Political History of Tennessee," A. S. Colyar gives the date of Haywood's birth as 1753, and Phelan follows him, but in Goodspeed's History of Tennessee, the date given is March 16, 1762. It is impossible to say which is right. The article reprinted by Clayton and quoted from below appears to be the authority adopted by Goodspeed.

John Haywood was born in Halifax County, North Carolina, and occupies an honorable place in the history of that State. He held there the position of Attorney-General from 1791 to 1794. He was then raised to the bench of the Superior Court and served for ten or twelve years. In 1801 he published a "Manual of the Laws of North Carolina," and afterwards edited the State Reports, covering the period from 1789 to 1806. While he was upon the bench, a Secretary of State, who was his personal friend, was indicted for forging land warrants, and he resigned to defend him. The public was much incensed against the accused, and great unpopularity is said to have

attached to Haywood for his course in the matter, although his client was convicted, and this, by tradition at least, was the cause of his leaving North Carolina and coming to Tennessee. He moved to this State probably in 1810, purchasing an estate seven miles from Nashville, where he made his home for the remainder of his life. The date of his coming to Tennessee is not certain. Colyar puts it in 1802 or 1803, Clayton in 1807, and Phelan in 1810. In 1812 he was elected one of the Judges of the Supreme Court, and held the office until 1826. At this time there was no Chief Justice of the Court, but it is said that Haywood was accepted as the presiding member. Colyar intimates that he did not preside with much dignity, and says that his one fault as a Judge was an excessive kindness of heart, which made him too lenient to law-breakers. He illustrates this peculiarity by the following anecdote:

“On one occasion a very bad man had been convicted when the public was clamorous and the Attorney-General persistent. Finally Judge Haywood said to the Attorney-General: ‘This is signing the poor fellow’s death warrant, and I reckon I’ll have to do it, but I want you to understand this hanging must last for several years.’”

While he was on the bench he published the three volumes of Tennessee Reports which bear his name, and in collaboration with R. L. Cobbs, compiled the volume of statutes known to the profession as “Haywood and Cobbs.”

His large and active mind was not sufficiently engaged by these duties, and being fond of literature, history and metaphysics, he found pleasant employ-

ment in philosophic and historical writing. As an author he is best known by his "Civil and Political History of Tennessee." This valuable book comprises the history of Tennessee from its beginning to the adoption of the Constitution of 1796, and was prepared with great labor and care. It contains almost a daily record of events. The style is rich, somewhat too rich in places, showing a fondness for large words and flowing sentences, but while the author is unconsciously inclined to magnify the merits of certain of our ancient worthies, and is sometimes more positive in opinion than is altogether safe, his book is exceptionally fair and trustworthy. He also wrote the "Natural and Aboriginal History of Tennessee," a book now nearly forgotten and never much read. In it, among other things, he undertakes to prove the descent of the North American Indians from the ancient Jews. Very few persons have had the courage to read this book, although it is said to abound in learning and in ingenious reasoning and speculation. He was the author of still another book called the "Christian Advocate." Colyar says that it gives rise "to the report that Judge Haywood accepted the doctrine of visible supernatural agencies." He further says that this came in part from the discussion in the book of the power of water-witches. It seems that Judge Haywood was a believer in the occult science of locating wells by means of a forked switch. Even to this day the water-witch plies his vocation in many parts of Tennessee.

Judge Haywood's mind seems to have been attracted by every subject that could engage the speculative or reasoning faculties. The fact that he carried on these

diverse pursuits, and at the same time gave much attention to the education of young men for the bar, proves the richness of his powers of mind. We may be inclined to smile now at his belief in water-witches and his speculations about the origin of the Indians, but the fact remains that he was the greatest jurist that has lived in Tennessee. History, philosophy, occultism were his amusements. And it is said that while his speculative works have the peculiarities pointed out here, they are wonderfully rich in genuine and accurate learning.

Clayton, in his history of Davidson County, reproduces a sketch of Haywood which was originally published in the Southwestern Law Journal and Reporter for June, 1844. The name of the author is not given. The following is extracted from that sketch as an excellent statement of Judge Haywood's great influence upon the jurisprudence of Tennessee and of North Carolina. "As an instance of the effect which his reasoning had upon the current of decisions in North Carolina, as well as in Tennessee, we need only to refer to the case of the *State vs. Long*, decided at Hillsboro, North Carolina, in April, 1795. This was an indictment against Long for larceny, on the authority of the English cases, that borrowing with the fraudulent intent of stealing the property borrowed would constitute larceny. Two of the Judges went with the English authorities, Judges Haywood and Williams held that in order to constitute larceny, the property should have been taken *invito domino*, and Long was acquitted. To Haywood's report of this case, he appended a note, opposing the authority of the English modern cases, and contending for the law as laid

down in Coke, Hale and Hawkins. Upon this authority of this extra-judicial opinion of Judge Haywood, the courts of Tennessee (and of North Carolina too, it is believed) have uniformly acted. * * * * In *Braden's case*, Overton, J., said: 'The rule laid down in the note of the case of the *State vs. Long*, is correct law, and the reasoning, though contrary to many late decisions in England, is incontrovertible.' By an Act of the Legislature of the 21st of January, 1842, the law which had been established for fifty years was thrown aside, and the English law established in all its vigor.

"But the ability and learning of Judge Haywood were nowhere so fully displayed as in the celebrated case of the University of North Carolina against Toy and Bishop. The Legislature of 1789 conferred upon the University all the property which had, or might thereafter escheat to the State; but by an Act of 1800, this right was attempted to be taken from the University, which was resisted by Judge Haywood, who was then at the bar. The law divesting the University was declared void and unconstitutional, and the rights of the University permanently sustained. * * * * When Judge Haywood came to Tennessee, the profession was much divided in reference to the construction of the Act of 1797, explaining the Statute of Limitation of 1715. The questions involved in this Statute had been decided in North Carolina in the case of *Crutcher vs. Parnell*. In that case the argument of Judge Haywood had the effect to produce the decision that seven years' possession with a color of title would bar an action of ejectment, and that it was not necessary to show a regular chain of title. The

Act of 1797 provided that the Act of 1715 should apply in all cases where any person or persons shall have had seven years' peaceable possession of any land by virtue of a grant, or deed of conveyance founded on a grant, and no legal claim by a suit, etc. The cases of *Sawyers, lessee, vs. Shannon*, 1 Tenn., 465; *Lillard vs. Elliot*, *Patton vs. Eaton*, 1 Wheaton, and *Hamptons, lessee, vs. McGinnis*, 1 Tenn., 286, were decided about the time Judge Haywood made his appearance at the bar of Tennessee, in which the doctrine of a connection of title seemed to be settled. The case of *Weatherhead and Douglass vs. Bledsoe's Heirs*, reported in 2 Tenn., 352, was the first leading case on the construction of this Statute in which Judge Haywood took a part as counsel. A distinguished and able lawyer who was then at the bar, thus describes the position of Judge Haywood in reference to this case: 'No case could have been more thoroughly investigated and ably argued at the bar than that of *Weatherhead and Douglass vs. Bledsoe's Heirs*. By the time at which it came up for final adjudication, many cases involving the same questions were in progress in the Circuit Courts; the subject had been very much discussed at the bar and elsewhere; public attention was strongly directed to it, and the faculties of the profession had become quickened and invigorated, all their zeal and energy aroused, and all their resources stimulated into action by the general interest which was now beginning to be felt in the issue; all seemed to anticipate that a decisive battle was to be fought, and however it might terminate, that the result would be most disastrous to some and most fortunate to others, and a very doubtful influence to the community at large.

Jenkin Whiteside appeared as the great champion for Bledsoe's heirs and connection of title; John Haywood for Weatherhead and Douglass and the doctrine of 'color of title.' * * * * Notwithstanding Judge Haywood's great talent, he lost the case by the opinion of all the Judges, excepting Judge Overton, dissenting. Soon after this opinion, Judge Overton resigned, and Cook died, and their places were supplied by Robert Whyte and John Haywood in the year 1816. When Mr. Haywood became a Judge of the Supreme Court, although he stood alone on the subject of his doctrine of 'color of title,' he never yielded it. From that time until 1825, he persevered in his opposition to the construction of the Statute of Limitation which made a connection of title necessary. From being alone in his view of this law, Judge Haywood found himself at last sustained by all the members of the Court of five Judges, with the exception of Judge Whyte, who was not to be moved from his opinion by popular feeling or the sophistry of legal learning."

The author of the article quoted above declares that: "In tact and eloquence—such eloquence as reaches the heart and convinces the judgment—Haywood had no equal in Tennessee." He further asserts that as an orator he was equal if not superior to Grundy, which is not in accord with the general opinion of later times; and that he possessed "inexhaustible stores of imagination," and was quick in argument and in reply, but that his imaginative faculties were so largely developed as to "give to some of his opinions an air of eccentricity." Like most men of strong and quick minds and positive convictions, Haywood was sometimes regarded as overbearing. It is said also that he was ambitious

and was disposed to prefer his own judgments to those of his associates. This last characteristic is not at all exceptional in great judges. It is interesting to note that, notwithstanding his devotion to the law and to literature and philosophy, he accumulated and left to his heirs a large property.

In person he was an immense man, weighing, it is said, three hundred and fifty pounds. He died December 12, 1826.

Stories of distinguished men are very much to be distrusted. As a rule they have come down from a remote antiquity and have been applied in succession to the great men of many generations. The writer has heard stories told of Lincoln and Webster which are to be found in Boccaccio. The rich store of anecdotes of Judge Haywood, therefore, is not drawn upon in this sketch. Of no Tennessean except Andrew Jackson, and possibly Davy Crockett, have so many amusing stories been told. The account given by Judge Guild of his examination by Haywood is trustworthy, however, and illustrates the simple luxuriousness of the private life of the great jurist. Judge Guild relates that in the year 1822, desiring to be licensed to practice law, he rode out to Haywood's home, where he found the jurist lying on a bull's hide under the shade of an oak tree. The reception accorded the seeker after license was apparently not very cordial, but servants were called and a chair placed for him, and the examination began. It appears to have been a long and rigid one, and Guild suggests that Haywood wished to find reasons for refusing the license, which is possibly not correct. Finally the two parties pleased each other greatly by a mutual

witticism, and the license was granted and supplemented by some excellent advice. Meanwhile sun and shade had been moving, and as often as necessary Haywood had called his negroes, who seizing the bull's hide "by the tail," hauled him into the shade, saving him the exertion of rising.

Haywood's place in the history of Tennessee is a very enviable one. He is regarded as our greatest and most learned jurist, and as we have seen, was esteemed, by some, the equal of Grundy as an advocate. That he could have deserved this high praise as a lawyer and as a Judge, and at the same time have possessed an accurate and profound general scholarship, and have been a writer of extraordinary ability, proves his mind to have been one of a very high order. There are some light, active and alert intellects that do many things passably without excelling in any respect, but there are minds so richly endowed that they genuinely excel in many things. Mr. Gladstone is an example of this many-sided greatness in our own time. Judge Haywood had one of these richly endowed minds. He was capable of great achievements in almost any field of intellectual effort. It would be difficult to find, in the whole range of our State history, a man of equal strength, versatility and massiveness of intellect. Not only was he a great Judge and a great lawyer, but he gave dignity and influence to the profession by demonstrating a capacity for large affairs outside the law. A lawyer who excels only in his profession may be never so valuable to his client, and the first duty of every lawyer is to the law and to his client, but it is the Mansfields, the Erskines, the Websters and the Haywoods who have done most to make the profession

the controlling one of the world. It owes much of its influence to the learning and technical skill of men who have lived only for the law, but not less to the men whom it has trained and fitted to combine with the law other, and it may be, greater things. The debt of the English-speaking world to the lawyers is incalculable, but this is attributable not more to those who have consecrated themselves to the exclusive study of the noble science than to those who mastering the law, but rising above the purely business and selfish work of the profession, have made useful and effective in the affairs of the world, the skill and the learning gained at the bar. It is not asserted that a lawyer should apportion his time and energies among diverse pursuits; there is already too much sciolism and case study as it is. But surely it is possible to be a lawyer, a good lawyer and a successful one, without surrendering the dignity of manhood, or the right to participate in the general business of the world.

The enormous increase of lawyers is begetting a competition as strenuous as that of the commercial world. The commercial spirit is taking hold of the profession. Formerly a lawyer was estimated according to his knowledge of the law and his ability at the bar, and business was not solicited. Now there are men in the profession who are conducting detective agencies and collecting agencies, advertising and photographing themselves to get business; hurrying their solicitors to the scene of every accident to secure employment in the action for damages. Too often even the reputable lawyer is content to be the instrument, not the adviser of his client. Formerly the client did as the lawyer told him, but now the dignity and the

ethics of the profession sometimes with difficulty withstand the demands of rich and valuable clients. Of course this is not true of all lawyers. There are many in every community who uphold the honor and the dignity of the profession, but the poison is spreading. The old high standards are disregarded more and more, and the profession is in danger through these unworthy members of losing its hold upon the respect of the world, and its commanding influence in affairs.

We no longer study as Haywood and his generation studied. A few months' reading, a superficial acquaintance with the Code of Tennessee, and Caruthers' History of a Lawsuit, a complaisant Judge, a perfunctory and careless examination, a "pass examination," and a new lawyer is made. There is no longer need of Blackstone, and Coke, and Kent. The license once had, the Code and the form-books and the encyclopedias of law and of pleading and practice, do the rest. The average learning of the profession in the law, is lessening day by day; and easy access to the bar is bringing to it multitudes of men of inferior intellect and low moral standards. Above all men the lawyer should be well educated and honest. His proper business brings him into contact with every aspect of the world's affairs. He deals primarily with the all-important science of government. His profession heretofore has been the foremost, and it will continue to be so if only he will honor it himself.

The profession in Tennessee can have no better model than John Haywood. Morally sound, intellectually strong, profoundly learned in the law, liberally educated, scholarly, yet practical and successful, he was indeed the "very model" of a lawyer.

In the year 1776, a Commissioner was sent by North Carolina to examine and report upon the condition of affairs in the western territory of that State. This Commissioner was Joseph Williams, the father of John Williams and of Thomas L. Williams.

Joseph Williams was a man of much note in North Carolina. Some years before the Revolution he settled in Surry County, in that State, near the Shallow Ford of the Yadkin River. He was an officer in the British service under the Colonial government, but early in the revolutionary movement declared himself for the patriot cause, and was elected to the convention which met at Hillsboro in 1775. Among the other members of that convention were Robert Lanier and Joseph Winston, who were his brothers-in-law. In 1776 he was commissioned Colonel in the Continental army, and served in that capacity throughout the war, being especially active in subduing the Tories who infested North Carolina. His loyalty to the cause of the Colonies never wavered, but he devoted himself with energy, and gave his fortune to their service. He died in 1826 at the age of eighty, having lived for nearly half a century under the republican form of government which he had so honorably aided to establish.

Two military coats which belonged to him, one red and the other blue, are preserved in the rooms of the Virginia Historical Society at Richmond.

His regiment was present at the battle of King's Mountain, but owing to the illness of his wife he was unable to take the field at that time. He actively aided his brother-in-law, Major Winston, to prepare the regiment for the campaign in which it rendered the most efficient service. Colonel James Williams, who was

killed at King's Mountain, was his cousin. Joseph Williams is honorably mentioned in Wheeler's History of North Carolina, in Wheeler's Reminiscences, in Caruthers' History of the Revolution in North Carolina, and in many other histories of North Carolina,

John Williams, the future Senator from Tennessee, was born in Surry County, North Carolina, January 29, 1778. The extent of his education is not known, but he was a man of culture, and about the time of his majority secured a law license in North Carolina, though he did not engage in the practice, at least to any considerable extent, until he removed to Tennessee some years later.

Probably he was attracted to the beautiful valley of East Tennessee by the accounts he heard from his father. A letter written by Joseph Williams, after his return from his trip to East Tennessee, is preserved. In it he gives a brief but glowing description of the country lying at "the mouth of the Holston." The point indicated probably is the junction of the Holston and French Broad rivers in Knox County, where the home of J. G. M. Ramsey, the historian, afterwards stood, although it is claimed by some that it is the junction of the Little Tennessee and the Holston, at Lenoir City. The date at which John Williams came to Tennessee is not certainly known, but in 1813 he was commissioned Colonel of the Thirty-ninth Regular United States Infantry, and was in command of that regiment in the Creek war. He had previously served as a Captain in the regular army, in the Sixth Infantry, and as Colonel of Mounted Tennessee Volunteers, and had established a reputation for gallantry and for ability as a military leader.

The following extracts from Parton's "Life of Jackson" are presented as showing the importance of the services of Colonel Williams and his regiment in the Creek war:

"On the 6th of February marched into Fort Strother the Thirty-ninth Regiment of United States Infantry, six hundred strong, under Colonel Williams, a most important acquisition. Into this regiment one Sam Houston had recently enlisted as a private soldier and made his way to the rank of Ensign; the same Sam Houston who was afterwards President of Texas and Senator of the United States. It was to the patriotic zeal of Hugh L. White, of East Tennessee, that General Jackson owed this priceless re-enforcement of regulars. Hearing rumors of General Jackson's danger, Judge White left the bench and hurried to the wilderness to learn by personal inspection the true state of affairs. He found Jackson almost alone in the woods, contending with every difficulty. * * * * He returned to East Tennessee to aid in the raising of a new army. There he found his brother-in-law, Colonel John Williams, at the head of the Thirty-ninth Regiment, preparing to descend to New Orleans, according to orders received from the Secretary of War. He told Colonel Williams that he had been commissioned by General Jackson to represent to him his condition as very deplorable. * * * Judge White remained with Colonel Williams nearly all night, using every means in his power to impress upon his mind the necessity of relieving General Jackson's force. His importunities finally prevailed. Colonel Williams acquiesced in his wishes, and wrote to the War Department stating his intention to proceed to

Jackson's headquarters instead of to the South, according to previous instructions, and upon learning that his plans were approved by the government, at once marched for the former destination.

"On February 21, 1814, Jackson wrote to Major William B. Lewis: 'I am truly happy in having Colonel Williams with me. His regiment will give strength to my arm and quell mutiny.' " *

In a private letter written April 1, 1815, describing the opening of the attack on the Horse-shoe, Jackson, as quoted in the Nashville Whig of the 27th of that month, said: "The Thirty-ninth Regiment, led by the gallant Colonel Williams and Major Montgomery, was in the center." †

Colonel Williams came out of this war with great credit, and in 1815 was elected to the vacancy in the United States Senate caused by the resignation of George W. Campbell, and at the expiration of that term, was re-elected and served until 1823, when he was again a candidate, but was defeated by Andrew Jackson. In 1823, Jackson and Williams were in personal and political antagonism, and the friends of Jackson resolved to defeat Williams unless he would promise to support their leader for the Presidency.

John H. Wheeler says that this enmity was caused by Jackson's failure to do justice, in the opinion of Colonel Williams, to the conduct of the Thirty-ninth Regiment in the battle of the Horse-shoe. ‡

It should also be said that Colonel Williams, having yielded to the urgency of Judge White, and having

* Parton's Jackson, Vol. 1., p. 503.

† Parton's Jackson, Vol. I, p. 517.

‡ Wheeler's Reminiscences, p. 419.

departed from his original plan, and having sought a change of his orders, thought that General Jackson had not sufficiently recognized the merit of his conduct.

While there are numerous utterances of Jackson's recorded, bestowing praise upon Colonel Williams, it will readily be understood that military leaders are not in the habit of commending their subordinates to the detriment of their own interests or their own fame.

When the Jackson men demanded from Williams a promise to support their candidate for the Presidency, he replied that he had already pledged himself to Mr. Crawford, and declined to give the promise. He made an active canvass of the State in his own behalf, and secured many assurances of support. He was very popular, and the Jackson party, after trying the strength of many possible candidates, decided that the only way to beat him was to have Jackson himself become a candidate.

It is a striking fact that a good and competent man was thus sacrificed for loyalty to his promise, and because he would not yield to the ambition of General Jackson.

While in the Senate, Colonel Williams advocated internal improvements, and particularly desired the building of a great national highway from Washington southwestward through Virginia and Tennessee. In 1825 he was appointed by President Adams, Minister to Guatemala. After his return home he was an active promoter of the projected Louisville, Cincinnati & Charleston Railroad, which was intended to extend from the Ohio River through the States of Kentucky, Tennessee, North Carolina and South Carolina to the



JOHN WILLIAMS.

Atlantic Ocean. He was also, during this period, twice elected to the State Senate, but mainly devoted his time to the law. He died at his home near Knoxville, August 10, 1837.

He was the grandfather of J. C. J. Williams and Thomas L. Williams, both living members of the Knoxville bar, and of Rufus W. Williams of the New York bar. His son, Colonel John Williams, the father of the three last named, was for many years prominent in East Tennessee, and was probably the most intimate friend of Andrew Johnson.

The controversy between Colonel Williams and General Jackson is of much greater historical importance than appears upon the surface. From what has been said of Colonel Williams' position in regard to internal improvements, it will be seen that he inclined to the policies which were afterwards advocated by the Whig party.

In the first quarter of this century, and indeed until 1835, neither the Federalists nor the Whigs had any apparent strength in Tennessee. The public men of the State were, almost without exception, Jeffersonian Republicans. No doubt there were many others like Colonel Williams who were not in entire accord with the Republican policies, but there was no organized opposition to that party. The first positive manifestation of opposition that was at all important is to be found in the controversy between Williams and Jackson, and probably the origin of the Whig party in Tennessee may be traced to this occurrence. Among those who supported and voted for Williams in opposition to Jackson, was David Crockett, whom Phelan regards as the father of the Whig party in Tennessee.

The confirmation of the division thus begun will be shown in the sketch of John Bell. This brief statement will indicate, however, the importance of Senator Williams as a factor in the political history of the State.

The flag carried by the Thirty-ninth Regiment at the battle of the Horse-shoe is still preserved by Mrs. Joseph W. Sneed, of Knoxville, who is a grand-daughter of Colonel Williams, and whose husband, Judge Sneed, is his grand-nephew.

Joseph Williams, a son of Senator Williams, served acceptably in Congress as a representative of the Knoxville district.

The history of the descendants of Joseph Williams, of North Carolina, is full of interest. He had ten sons and two daughters. In addition to Senator John Williams, two others of these sons were men of note, and played important parts, one in the history of Tennessee, and the other in the history of North Carolina. They were Thomas L. Williams and Lewis Williams, and were twin brothers. The record of this double birth is found in the family Bible, and is a pleasing manifestation of parental care and exactitude. The entries are as follows: "Lewis Williams, sixth son, born first February, exactly at day-break, 1786." "Thomas L. Williams, seventh son, first February, five minutes after day-break, 1786."

Thomas L. Williams was a Judge of the Supreme Court of Tennessee, and was also Chancellor. It is in the last capacity that he is best known. Born in North Carolina, as above shown, he came to Tennessee early in this century. He was a skillful and successful lawyer, and in 1826 was made a Judge of the Supreme Court. He was appointed by the Governor to a va-

cancy, but the Legislature declined to fill the place permanently, thereby reducing the number of Judges. From the time of his retirement from the Supreme bench until 1836, he practiced law in Knox and adjoining counties. In 1836 he was elected Chancellor for the Eastern Division, and was twice re-elected, holding the position continuously until 1854. He died at Nashville, December 2, 1856.

To be Chancellor in Judge Williams' time meant much more than it does now. He presided in nineteen counties, holding thirty-eight courts a year, and was absent from home for forty weeks each year. There were no railroads in Tennessee until the "fifties," and to all of his courts Chancellor Williams went on horseback, over rough roads, riding winter and summer, and enduring hardships that few men could have supported. The Chancery Court was not a popular favorite. Public sentiment was unfriendly, and legislation, therefore, while it did not go to the extent of abolishing the Court, was not favorable to it. Through this trying period Chancellor Williams was assiduous and unswerving in the discharge of his arduous duties. To his fidelity and endurance the lawyers of the State attributed in large measure the preservation of the Chancery system.

In the lawyers' memorial of Judge Williams, attached to 4th Sneed, it is said that his most noteworthy peculiarity as Chancellor was a repugnance to fraud in all its forms, and it is intimated that his faculty for detecting fraud was perhaps excessively developed. If this be true, it was a failing that leant to virtue's side. Judge Williams was a man of strong will and convictions, not without prejudices, but essen-

tially honest and just. Without being exceptionally learned, he was well founded in the law and had the power to analyze and discriminate. He is described as possessing strong, vigorous, practical, good sense. He holds a prominent and honorable place in the history of our judiciary. His portrait, which may now be seen in the Chancery Court-room at Knoxville, shows him to have been a handsome, dignified, refined looking man.

The career of his twin brother Lewis, above referred to, was a distinguished one. He was for twenty-eight years a member of Congress from North Carolina, and Thomas H. Benton, in his "Thirty Years' View," refers to him as "the father of the House." He was one of the first to receive this honorable distinction.

Among the most distinguished lawyers of Tennessee in the beginning of this century, was **Jenkin Whiteside**. He was born at Lancaster, Pennsylvania, in 1782, and died at Nashville, September 25, 1822. When General Daniel Smith resigned from the United States Senate in 1809, Whiteside was elected on the 26th of May of that year to succeed him, and served until September 1, 1811, when he resigned and returned to the practice of the law.

He was a specialist in land law, the only branch of the law in which, at that time, large fees were to be had in Tennessee. It was on account of his proficiency in this respect that he was so largely employed in the settlement of the controversies which arose over the grant of lands to the colleges and academies of the State. He is described as a man of "vigorous understanding, wonderful sagacity and acuteness, devoted much to

money-making, and especially delighting in speculation in uncultivated lands." *

He acquired large bodies of wild lands, and along with them the usual appurtenances of Tennessee lands in those days, to-wit, lawsuits.

In 1801 and 1802, he was one of the Commissioners for the government of Knoxville. In running through the Tennessee Reports covering the period of Whiteside's active practice, his name is found oftener than that of any other lawyer. It seems certain that he had the largest practice. It is also apparent from examining the reports, that his most frequent competitor, after 1808, was Felix Grundy.

If **Felix Grundy** had not lived in the time of Clay and Webster, and had not been brought constantly into contact with them, he might have had a fame as great as theirs. Clay was a greater orator than Grundy, but not much greater; Webster was more eloquent, but not much more. There are passages in Grundy's speeches that are not surpassed in American oratory, and there was a time when his career promised to be as conspicuous and as important as that of any American living in his time.

Felix Grundy was of English descent. His father, who was a native of England, emigrated to America when a young man and settled on the Virginia frontier. There, in Berkeley County, Felix Grundy was born September 11, 1777. Two years later the family moved into Pennsylvania, and in 1780 went farther westward into Kentucky, where Felix Grundy lived from childhood to manhood. Throughout the

* Foote.

period of his youth the entire Kentucky frontier—and it was all frontier at that time—was subject to constant incursions by the Indians. The Grundy family seems to have been particularly unfortunate in these Indian wars. The eldest son had been killed by the savages in Pennsylvania, and the dangers that the survivors suffered and the misfortunes they endured in the wilderness, were eloquently portrayed in one of Mr. Grundy's speeches in the Senate. He said: "If I am asked to trace my memory back and name the first indelible impression it received, it would be the sight of my eldest brother bleeding and dying under the wounds inflicted by the tomahawk and scalping-knife. Another and another went in the same way. I have seen a widowed mother plundered of her whole property in a single night; from affluence and ease, reduced to poverty in a moment, and compelled to labor with her own hands to support and educate her last and favorite son—him who now addresses you."

These sentences graphically portray the conditions under which the future Judge and Senator was reared.

As a boy he developed a fondness for reading, and fortunately at the time when it was proper for him to attend school, Dr. James Priestly, who was at one time President of Nashville University, established an academy at Bardstown, Kentucky, and at this institution, one of the most excellent of its kind, Felix Grundy was liberally educated. His mother wished him to become a physician. Medicine is always an honorable and mysterious profession, and was particularly important and remunerative on the frontier. It is intimated by one writer that he was destined to this profession by his mother, partly on account of the fact that he was

the seventh son in regular succession. He began the study of medicine, but while receiving his education, developed remarkable powers as a public speaker, and an inclination toward the law. His mother was wise enough to yield her own preference to the unmistakable manifestations of his fitness for the bar.

He was licensed to practice law in 1797, and two years later was elected to a Convention called for the purpose of revising the Constitution of Kentucky. In this Convention he greatly distinguished himself, especially in the advocacy of judicial reforms which have since been accomplished and need not be mentioned here.

Soon after the adjournment of the Convention he was elected to the Legislature, and was successively re-elected until 1806. During a part of his career in this body he encountered Mr. Clay frequently, and without any loss of reputation. It is related that at one time Grundy and Clay alternately occupied the attention of the General Assembly for six days. The occasion of this remarkable debate was the introduction of a bill for the ostensible purpose of incorporating an insurance company in Lexington, but for the real purpose of establishing a bank. Grundy regarded the attempt as fraudulent, and opposed it, or rather sought a repeal of the law after it had been passed. Clay spoke in support of the measure.

In the fall of 1806 Mr. Grundy was nominated for a judgeship of the Supreme Court of Errors and Appeals, and was unanimously confirmed by the Senate. Soon afterwards he became Chief Justice of the Supreme Court. In the winter of 1807, finding the salary of the office insufficient to support a growing family, he

resigned and returned to the bar; and in order to disconnect himself entirely from public affairs, came to Tennessee, making his home at Nashville. For three years he gave himself exclusively to the law, almost instantly acquiring a large and lucrative practice. But he was born for large affairs, and in 1811 an election to Congress was almost unanimously accorded him. He was elected with the understanding that he regarded the aggressions of Great Britain, which were constant at that time, as insupportable and as demanding redress. Entering Congress in November, 1811, as a Democrat, he took an active part in all the proceedings that led to the war of 1812, promptly and earnestly uniting with those who demanded resistance of England. He was placed upon the Committee on Foreign Affairs, which at a time like that, was the most important of all the committees, and joined in the favorable report upon the President's war message of June 1, 1812. Throughout the war he was a staunch supporter of the administration, and was the subject of incessant and angry attack by the Federalists. He was both the most efficient and the most conspicuous of Mr. Madison's friends. The Federalists attributed the war to "Madison, Grundy, and the Devil," and there can be no doubt that the first two were in very large measure responsible for it.

Mr. Grundy served two terms, and then, from 1815 to 1819, was not again in public life. In the year last named, however, he consented to become a member of the Legislature of Tennessee, in which capacity he served for six years. One of the important events of this time was the establishment of the boundary line between Tennessee and

Kentucky, over which there had been much debate, giving promise of serious trouble. Finally an amicable adjustment was made through the efforts of Mr. Grundy and William L. Brown, under appointment by the Legislature.

In 1829, Grundy succeeded John H. Eaton in the United States Senate, and served until 1833, when he was again elected and served until he was appointed Attorney-General for the United States by Mr. Van Buren, in 1838. He held this position for a year, and, resigning in 1839, was a third time elected to the Senate. His death occurred December 19, 1840.

Mr. Grundy was easily the ablest and most successful criminal lawyer of his time in Tennessee, and in the Southwest. John M. Bright is authority for the statement that of one hundred and sixty-five persons whom Grundy defended for capital offenses, only one was finally condemned and executed. This phenomenal success did not fail to bring upon him the criticism of the less successful. Defeated lawyers sometimes declared his methods unworthy, and political enemies were zealous in giving currency to these censures. Political animosities are strong enough now, but in those days they were much stronger; men fought each other in politics as they fought the Indians, neither giving nor asking quarter. There could be nothing good in political enemies.

These stories of Grundy, coming down to later generations, affected the opinion of the historian Phelan, whose judgments are not altogether commendatory. These sketches are not intended to be eulogies, but plain historical statements, and it is not asserted that Mr. Grundy was a man without faults. There seems to

be a positive injustice, however, in singling him out as an object of attack, when there is no proof that in his professional methods he was not as correct as his contemporaries were, and as a proper sense of personal and professional honor required. That he was a successful practitioner, and a most seductive advocate, no one doubts; but he was too large to stoop to mean things, and too capable to need the aid of improper methods. Improprieties of professional conduct are usually committed by those who have the active management of the details of a case, as in summoning witnesses, preparing evidence and selecting juries. It is well known that throughout Mr. Grundy's professional life in Tennessee, his position was such as to relieve him, in large measure, from detail work of this kind. Almost invariably he was associated with other lawyers of less note who relieved him of the drudgery of the cases. He succeeded by force of a marvelous ability, and not by improper methods. His brilliant successes were a constant source of astonishment to his contemporaries, as well as the cause of unkindly criticism. Before a jury he seems to have been almost irresistible. He was an unerring judge of human nature, and was to the last degree tenacious of his purposes. It is said of him that while he was on the floor his attention was given exclusively to the jury, and that he always knew what impression he was making. Like Rufus Choate, he would sometimes concentrate all his powers upon a single juror, and rarely without effect. His command of language was unsurpassed; his delivery impassioned and dramatic; his personal appearance pleasing, commanding and impressive, and his elocution of the most attractive quality. A writer com-

paring him with Haywood, says that Haywood addressed the intellects of the jurors, and Grundy their hearts. Such generalizations are more or less fanciful, but it is probable that Grundy was a much more impassioned and emotional speaker than Haywood. At the same time, however, he was a thoroughly equipped lawyer and a close and powerful reasoner. Even in those times, when the graces of oratory were more prized than they are now, men could not reach such high stations as he held, nor maintain themselves in them, without genuine and substantial ability. Grundy, like Haywood, was a man of a large and versatile intellect. It was not necessary for him to be a specialist in order to excel. At the bar, on the bench, in the Senate and in the Cabinet alike, he proved himself one of the first men of his time. There was hardly a more brilliant or a more substantially learned and able man in public life in this country in his time. In the Senate, as an orator he was classed with Henry Clay, and as a reasoner he ranked with the strongest men in that body.

It was as a jury lawyer that he was best known in Tennessee, and to this day he is regarded as the ablest and most successful advocate that has ever appeared at the bar in this State. He was not, as many suppose, a specialist in criminal law. An examination of Overton's Reports will show that down to 1808, the date of his coming to Tennessee, the lawyers most frequently before the Supreme Court were Whiteside, Dickinson, Campbell, Trimble and Haywood, but that immediately after taking up his residence in the State, Grundy acquired a practice as large as any of these had. Indeed, if the reported cases from 1809 to 1811 were counted, it probably would be found that he appeared

oftener than any other lawyer, except Whiteside. He had many land cases—the great staple of litigation at that time—and was a popular and competent general practitioner.

He is described as a man of ordinary stature, inclined to portliness; his complexion was ruddy, his hair a light brown, inclined to red, and in later life mixed with gray, and his eyes blue; his temperament was cheerful, hopeful and benevolent, but he did not lack firmness; his manners were the most attractive, and he was so large a man intellectually that he was not tempted to the harsh language or conduct which characterized many of the public men of his time. He therefore made comparatively few enemies and many friends. His popularity was great, and he was regarded throughout the State as one of the ablest and most competent of the public men of his time. He stands in the very front rank of our great men, hardly surpassed by any in brilliancy or in substantial ability.

Few Tennesseans of early times were more successful or fortunate than **William C. C. Claiborne**. He was born in Sussex County, Virginia, in 1775, and died at New Orleans, Louisiana, November 23, 1817. He received a liberal education and was thoroughly trained in the law. The precise date of his coming to Tennessee is unknown, but he was a member of the Constitutional Convention of 1796 from Sullivan County, and on September 28, 1796, was appointed a Judge of the Superior Court of Law and Equity for the State, and served until October, 1797, when he was elected to Congress as a Democrat, and served until 1801. In 1802 he was appointed Governor of the Territory of Mississippi, being the second to

hold that office, and in 1803, with General James Wilkinson, was made commissioner to take possession of the Territory of Louisiana in behalf of the United States, the purchaser. In 1804 he was Governor of the Territory of Louisiana, and upon its admission as a State, was elected Governor, and finally, in 1817, was elected to the United States Senate, but died before taking his seat. He thus aided in framing the first Constitution of the State of Tennessee, was the second Governor of the Mississippi Territory, the first Governor of Louisiana Territory, the first Governor of the State of Louisiana. It would be difficult to imagine a career more successful. By all accounts he was a man of high character and unusual ability. His descendants are to be found among the oldest and best families of upper East Tennessee. Claiborne County, which was created in 1801, was named for him. His part in the history of Louisiana was a very honorable one. He was not popular among the Creoles on account of the policy which he and Wilkinson adopted, of bestowing the offices upon men from the States. This naturally caused much dissatisfaction among the Creoles, and therefore, when Claiborne was earnest for the National cause, at the time of the British invasion, he did not receive cordial support in New Orleans. The reason, however, was dissatisfaction with the home administration, and not a want of loyalty to the national government. The earnestness and determination of Claiborne's character are shown by the fact that in order to secure support for the American cause, he granted amnesty to the Barratarian pirates upon condition that they would fight the British. The terms were accepted and the pirates performed their part

gallantly. Claiborne contributed materially to the detection and defeat of Aaron Burr's conspiracy. The historians of Louisiana characterize him as an able, sincere, patriotic man, but very much determined to have his own way in everything.

Of Judge **W. W. Cooke**, nothing is found except that Albert D. Marks, in his sketch of the Supreme Court of Tennessee, published in the Green Bag for March, 1893, states that his full name was William Wilcox Cooke, that he practiced law at Nashville, served on the Supreme bench from 1815 to 1816, and died July 20, 1816.

Judge **Robert Whyte**, who succeeded Judge Overton on the Supreme bench, was a native of Scotland, and was born at Wigtonshire, January 6, 1767. He was educated at Edinburgh for the ministry, and was at one time professor of languages at William and Mary College, Virginia. He studied law in Virginia, and moved to North Carolina, whence he came to Nashville in 1804. He served as Supreme Judge from 1816 to 1834. He died November 12, 1844. Mr. Marks, in whose sketch is found nearly everything here stated of Judge Whyte, says: "He sustained himself well during his long term of service, with many able men, and his opinions commanded great respect, though he was a literalist, and laid great stress on technicalities." From the inscription on his tombstone, it appears that he was a member of the Baptist church, and was prominent in the Masonic fraternity.

Jacob Peck was born in Virginia in 1779, admitted to the bar in that State in 1808, and died in Jefferson County, Tennessee, June 11, 1869. He was State Senator from Jefferson County in 1821, and

in 1822 was elected to the Supreme bench to succeed Thomas Emmerson, who had resigned. He is described as a man of unusual culture, fond of music, painting, mineralogy and zoology. He was noted for positiveness and independence of character, and for a readiness to dissent from the opinions of his associates.

Judge Peck, following the example of Haywood, Overton and Cooke, published a volume of decisions of the Supreme Court. After his retirement from the bench he continued the practice of law until his death, but found much time to engage in literary and scientific pursuits. He was a man of large frame and of extraordinary physical vigor. He was a competent man of affairs, and left a large and valuable estate.

Pleasant M. Miller was a native of Virginia, and came to Rogersville, Tennessee, in 1796, remaining there until 1800, when he removed to Knoxville. In 1801 and 1802 he was one of the commissioners for the government of Knoxville. He was elected to Congress from Hamilton District in 1809. Afterwards, and about 1824, he moved to West Tennessee, and from 1836 to 1837 was Chancellor of that Division. He was one of the most prominent and successful men at the Tennessee bar in his time. He married Mary Louisa Blount, the daughter of Governor William Blount, and from that marriage are descended many of the best people in Tennessee, notably in the city of Knoxville.

In the London Daily Telegraph of September 2, 1896, appeared the following: "It is pleasant to learn that our correspondent was misinformed when he stated that Mr. George Outlaw, who recently died in South Australia, was the last male descendant of King

Edgar Atheling, whose political vicissitudes led to the assumption by his posterity of this significant cognomen. Letters from Limpsfield, Berkhamstead, Kingston-on-Thames, and elsewhere, testify to the fact that there are still living many Outlaws, some of them doubtless unaware of the blue-blood coursing in their veins, and that there is little likelihood of the royal line becoming extinct for many generations to come."

To the family referred to in this extract belong the Outlaws of North Carolina, Tennessee and Alabama. The founder of the American family was Alexander Outlaw, who came to this country and settled in North Carolina in 1635. The family was prominent in the early history of North Carolina, its members being conspicuous for ability and for sterling integrity. Two of them served with distinction in the State Legislature and in Congress.

Alexander Outlaw, the subject of this sketch, was born in Duplin County, North Carolina, in 1738. He received a classical education, was admitted to the bar and began the practice in his native county. In 1783 he moved to Greene County, North Carolina, and settled in that portion which is now Jefferson County, Tennessee. He seems to have shared the general opinion that the Cession Act of North Carolina, of 1784, made it necessary for the settlers in the ceded territory to erect a government of their own, and he therefore took an active part in the formation of the State of Franklin. He was in the Convention of August, 1784, and in 1785, and again in 1786 was one of the commissioners of the State of Franklin to negotiate with the Cherokee Indians. His associates in 1785 were John Sevier and Daniel Kennedy, and in

1786 William Cocke, Samuel Weir, Henry Conway and Thomas Ingles.

In 1796 Alexander Outlaw represented Jefferson County in the Constitutional Convention, among his colleagues being Joseph Anderson and Archibald Roane. He was an active member of the Convention, and was highly esteemed by his associates. He represented Jefferson County in the first General Assembly, and in 1799 was elected to the State Senate from Cocke and Jefferson Counties, and was made Speaker. In 1801 he was returned to the Senate by the same counties. It should be mentioned also that he represented the new and short-lived County of Caswell in the Legislature of the State of Franklin. He had four daughters and one son. These daughters were married to four well known men of that time, to-wit: Judge Joseph Anderson, Joseph Hamilton, Paul McDermott and Judge David Campbell. From Paul McDermott and his wife was descended the wife of J. B. Cooke, of Chattanooga, former Judge of the Supreme Court of Tennessee; from Joseph Anderson and his wife, the late Alexander Anderson, Senator from Tennessee, and David D. Anderson, and Miss C. G. Anderson, of Knox County, Tennessee. T. G. Outlaw, a prominent and worthy citizen of Mobile, Alabama, is believed to be the present head of the direct line.

Alexander Outlaw died in October, 1825. He was one of the best and purest, as well as one of the ablest men of his time in Tennessee. His social position, thorough education and high character gave him prominence and influence, and his entire career was marked by genuine and unselfish patriotism. No man

in our early history left a better reputation, and none more faithfully endeavored to discharge his duties as a man and as a citizen.

Among the lawyers admitted to the bar of Knox County between 1792 and 1806, where George W. Campbell and Jenkin Whiteside, who were admitted in 1798; Edward Scott in 1799; Pleasant M. Miller in 1800; John Williams, James Trimble and Thomas Dardis in 1803; Thomas Emmerson in 1805.

CHAPTER III.

Early State Courts—The Oath of Office—Changes of Jurisdiction—Character of the Lawyers—Riding the Circuit—John Overton—James Trimble—Jesse Wharton—George W. Campbell—John Catron—Return J. Meigs—Sam Houston—John H. Eaton—R. G. Dunlap—Joseph Hamilton—Edward Scott—James C. Mitchell—George C. Boyd.

It is proper to explain here, our early court system more in detail. When Tennessee became a State, she retained at first the court system of North Carolina. This comprised two permanent courts, the Court of Pleas and Quarter Sessions, which was the equivalent of our County Court with an enlarged jurisdiction, and the Superior Court of Law and Equity, having a general original jurisdiction, and an appellate jurisdiction in cases coming from the Court of Pleas and Quarter Sessions. By an Act passed in 1813, an important modification was made in the Court of Pleas and Quarter Sessions, allowing five justices to hold the Court, but administrative acts were still to be performed by the whole Court. The Superior Court of Law and Equity was established in the State of Tennessee by an Act which took effect in April, 1796, and was composed of three Judges, until the fall of 1807, when a fourth was added. All the Judges were required to attend at every term. No one could be a Judge of the Superior Court except persons who had

been resident in the State when the Constitution was adopted, or had been resident for three years after that time.

The Judges were required to take the following tremendous oath: "I do solemnly swear that I will support the Constitution of the United States of America. So help me God.

"I do solemnly swear that I will support the Constitution of the State of Tennessee. So help me God.

"I do solemnly swear that I will well and truly serve the State of Tennessee in the office of Judge of the Superior Court of Law and Equity of said State. I will do equal law and right to all persons, rich and poor, without having regard to any person. I will not wittingly or willingly take by myself, or by any other person, any fee, gift, gratuity or reward whatever, for any matter or thing by me to be done, by virtue of my office, except the salary by law appointed. I will not maintain by myself, or by any other, privately or openly, any plea or quarrel depending in any of the said courts. I will not delay any person of common right, by reason of any letter or command from any person or persons in authority to me directed, or for any cause whatever; and in case any letters or orders come to me contrary to law, I will proceed to enforce the law, such letters or orders notwithstanding. I will not give my voice for the appointment of any person to be clerk of any of the said courts, but such of the candidates as appear to me sufficiently qualified for that office; and in all such appointments I will nominate, without reward, the hope of reward, or prejudice, favor, partiality, or any other sinister motive whatever; and finally, in all these things belonging

to my office, during my continuance therein, I will faithfully, truly, and justly, according to the best of my skill and judgment, do equal and impartial justice to the public, and to individuals. So help me God."

This first system continued until the passage of the Act of 1809, which took effect January 1, 1810, by which a Supreme Court of Errors and Appeals was established, consisting, at first, of two Judges, but afterwards, in 1815, increased to three. In 1823 the number of Judges was increased to four, and in 1824, to five; then reduced to four again, which continued to be the number until the courts were re-organized under the Constitution of 1834. Under the original Act, the Supreme Court of Errors and Appeals was to consist of two Judges of that Court sitting with a Judge of one of the five circuits which were established by the Act of 1809, and the Court was to sit at Jonesboro for Washington District, at Knoxville for Hamilton District, at Nashville for Mero District, at Clarksville for Robertson District, and at Carthage for Winchester District—the District of Robertson, consisting of Robertson, Montgomery, Dickson and Stewart Counties, and the District of Winchester, consisting of Jackson, Smith and Wilson Counties, having been organized in 1806, leaving in Mero District, Davidson, Sumner, Williamson and Rutherford Counties. At a later date the circuits were designated by numbers, and in 1817, Sparta was substituted for Carthage as a court town, and subsequently other changes were made.

By an Act passed in 1811, the provision requiring the attendance of a Circuit Judge was repealed, and from that time until another Judge was added to the

court, the two Supreme Judges sat alone. Their concurrent judgment was controlling, but if they differed, the judgment of the lower court was affirmed. The same Act gave the Supreme Court "exclusive jurisdiction of all equity causes arising in the Circuit Court." But in 1813, Circuit Judges were again given concurrent jurisdiction with the Supreme Judges in equity causes. This Act of 1813 also provided that an appeal might be taken directly from the County Court to the Supreme Court if both parties consented, otherwise the appeal was to the Circuit Court. The Supreme Court sat annually at each of the places designated by Statute. Under the Constitution of 1796 there was no constitutional court of last resort, and hence it was that the Legislature was able, in 1809, to abolish the Superior Court, and to substitute the Supreme Court and five Circuit Courts. In later times, the ability of the Legislature thus to abolish and establish courts came near to producing disastrous results. The Legislature failed in the effort to impeach a Circuit Judge, and an Act to abolish the entire court system was thereupon introduced and lacked only one vote of passing. Aaron V. Brown is to be remembered gratefully for his opposition to this measure. The terms of all judges, under the Constitution of 1796, were during life or good behavior, and this certain tenure of office seems, in some cases, to have produced very bad results. Impeachments were not uncommon, and too often the charges were well founded. It is said that impeachment was a favorite resort of defeated lawyers, who found it an easy means of shifting responsibility for failure, upon the courts. This however, is an exaggerated statement. It is not in-

sisted that the life tenure alone was responsible for the unfortunate events in the history of our early Judiciary, but it is beyond question that the responsibility rests largely upon it. Sometimes the Judges became careless. It was one of the charges against Judge William Cocke that he failed entirely to hold some of his courts as required by law. One Judge gave as an excuse for a similar dereliction, the fact that the court-house was infested with fleas, having been invaded by swine, in vacation. Sometimes the certain tenure of office made the incumbent over-bearing and tyrannical. Judge Guild has a long story to tell of a Judge who so outrageously treated the bar that the lawyers resolved unanimously to duck him if he did not amend his ways. Timely knowledge of this dire purpose worked the required change.

But after all, these cases were exceptional. While unworthy men were occasionally elected, the Judges were for the most part capable men, holding to the old traditions of the profession; learned in the law, firm in the administration of justice, dignified, faultlessly appareled and courteous.

In some histories of Tennessee, and in nearly all that has been written elsewhere of the early bench and bar of our State, a disposition to exaggerate the crudeness and roughness of the conditions under which the law was then administered, is manifest. By the same influences the impression has been created that the lawyers were illiterate. Ramsey gives a picture of the court-house at Greeneville, which was also the State-house of Franklin. He describes it as a small log house, without doors, windows or floor, lighted by an opening which served as a door, and by the spaces

between the logs of the walls. Putnam has preserved an account of a decidedly inelegant speech by Mr. Douglass, of the Nashville bar, complaining of the untidiness of the frequenters of the court-room.

Liberal generalizations, based on a few facts like these, have very much misrepresented the early legal history of the State. It must be admitted that for many years the court-houses were rude and unattractive. It cannot be denied that, as a rule, the pioneers of Tennessee were plain people, but they were not all grossly ignorant or uncouth. They had few of the comforts of life, their clothing was plain, their houses were rude, and their manners lacked polish, though their morals were good and their purposes excellent. But many of the early settlers were people of education, of genuine refinement, and of honorable lineage.

As a rule the lawyers were men of intelligence and education, and not without refinement. Willie Blount, Roane, Grundy, Campbell, White, Cocke, Sevier, McNairy, were all men who would have been acceptable in any company, however refined. They were men of culture and of personal dignity. Jackson was sometimes rough, and his quick and headlong temper drove him to unseemly acts, but when master of himself, he was a gentleman of most gracious and attractive manners, respecting himself and respecting others. It is said that when LaFayette was publicly received at Nashville he entered the reception hall with Jackson, and was presented by him, and that opinion was much divided as to which had the more courtly manners, the French nobleman or the American backwoodsman. Judge McNairy and Judge Humphreys are remembered as refined and scrupulously courteous. Hay-

wood could be the most attractive of men when he would, but his mood was variable. It must be remembered that many of the leaders of the Tennessee bar in earliest times were choice men, selected in some instances by the President, or by the authorities of North Carolina, as administrators of the new Territory. In this way came the two Blounts, McNairy and others. Claiborne and Overton were educated men, who maintained themselves acceptably and with dignity in conspicuous positions. Judge White was the most courteous and dignified of old time gentlemen, the very essence of propriety. As for Governor William Blount, he is unquestionably the foremost man, in early Southwestern history, for courtesy and deportment, while his charming wife, Mary Grainger Blount, is, by consent of her contemporaries, accredited with all the graces and excellencies that adorn and dignify womanhood.

In early times, and indeed down to the present generation, lawyers rode the circuits. No one county afforded a supporting practice to a bar richly supplied with able men, engaged in strenuous but legitimate competition. And so each lawyer had his saddle-horse, always one of the best, and followed the Judge from court to court. The life was healthful and the association of the lawyers created a feeling of fellowship such as is not fostered by present conditions. The heated discussions of the bar frequently begat asperities. Under any conditions it is not easy for lawyers to cherish enmity against each other, but especially was it difficult when they rode the circuit. The long rides together, and association at the village inn, favored a close and friendly intercourse, and speedily effaced all

recollections of blows given and received in court. In the good old days, fees were not large, and as money was a scarce commodity, payment was often made in produce and live stock. It was not uncommon for lawyers to carry branding irons to mark the cattle they received for fees. Time was a most important element of all contracts, especially with lawyers. The writer, whose father was a lawyer of recent years, but of the last generation that rode the circuit in East Tennessee, has in his possession an old-fashioned note case, filled to repletion with promissory notes of varying amounts, all sleeping forever under the sure protection of the statute of limitations. The son of a famous East Tennessee lawyer declares that at his father's death he found probably fifty thousand dollars of such notes among his possessions. On some of these venerable instruments in the writer's possession are credits ranging from one dollar upward. It was not only the lawyers, however, that suffered in this way. In the old days a note of hand was in effect a promise to pay at the convenience of the maker, and one must almost regret that the modern business methods have substituted a demand for promptness for the amiable and kindly old-fashioned way. Even in the most primitive parts of Tennessee, there is now a propensity to expect money to be paid when it is due. Such a disposition would, in former times, have been held as proof of hardness of heart and of utter unreasonableness.

In that elder time, all lawyers were special pleaders, and versed in the mysteries of *nisi prius*. Declarations were taken from Chitty and resounded with "whereas" and "heretofore," and "to-wit," and flowed on to vast lengths with that fine old verbiage which

is as mysterious to the modern lawyer as formerly it was to the unlearned. In the old Tennessee Reports, "Den," on the demise of various parties, is a familiar figure. Indictments, with obvious justice and soundness, attributed all breaches of the criminal law to the instigation of the devil, and described weapons of offense with infinitely impressive detail and circumstance. The English common law in its original purity prevailed, and the penalties prescribed by Statute, and otherwise, were such as existed in England in the eighteenth century. The stocks and the whipping post were common, and sometimes the branding iron was used. Till 1842, debtors might have been sent to jail, and it was by Statute, and not by the Constitution, that this was changed.

There was little commercial business, and the lawyer was not also a constable. Professional standards were high and business was not solicited, but followed merit. The lawyer believed that the only right way to get business was to deserve it. There was plenty of time, and fame was made by good speeches, and so the cases were argued at much length, and with every possible display of skill and learning, and always before a large and appreciative, but not uncritical audience. The day of great speeches at the bar is past, or rather the day when great speeches were made in all sorts of cases. In the old time there were not many big cases, but in almost every case there were big speeches. With the increase of business the lawyers have put aside eloquence. It is now a lost and a despised art at the bar. The briefest possible statement of law and facts takes the place of the finished and strenuous orations of old times, and modern courts have adopted the

inconvenient and obstructive custom of interrogating counsel, so that fine periods are always in danger of interruption, which means destruction. In the presence of an interrogative court, no man dare attempt eloquence. This method of interrogation is further objectionable on the ground that it requires an excessive knowledge of the law and of the facts of one's cases.

All in all, these old times were good times for the lawyers, and good for Tennessee. It was at the old bar that the men were trained who made Tennessee the foremost State in the West, the equal in political influence of the great State of New York. Under these old methods grew up also the men who, in the generation before the Civil war, gave to the Supreme Court of Tennessee a deservedly unsurpassed reputation for learning, wisdom and justice. The two generations next after that which we have been considering were full of great lawyers and great Judges.

But they of the first generation were great also. The bar of no State in the Union had more men of high character and ability in the first quarter of this century than that of Tennessee. And down to the war, Tennessee held her place as the foremost State in the Southwest, by the ability of an extraordinary succession of strong men, most of whom were lawyers. It is a fact that the very first settlers of the State were better educated and more refined in life and manners than the mass of the people of the next generation. The first comers were from older Colonies, where advantages were superior, whereas the generations immediately following lived hard and isolated lives, the

necessities of existence requiring all their time and energies.

And while the writer has been constantly provoked by the difficulties of finding the material required for this work, he rejoices to have had occasion to examine more closely than ever before, into the histories of the men who were leaders in the first years of Tennessee. One comes from the study of the period with augmented respect, and with admiration for nearly all whose names have appeared in these sketches. They were better and stronger men than is generally believed. By their abilities and their virtues they would have reflected honor on the State in any period of its history, but especially when tried by the standards of their own time, judged with due regard for their environment, they were men to be honored and to be praised, and the bar of Tennessee may do well to ask itself wherein it now surpasses in professional or in personal excellence such men as Haywood, Grundy, Roane, Trimble, Overton and White.

One of the largest and strongest families in Tennessee is descended from **John Overton**. It is connected with leading families in all parts of the State, and is especially strong at Nashville, Memphis and Knoxville.

John Overton was born in Louisa County, Virginia, April 9, 1766. He was too young to serve in the Revolution, but two older brothers were in the Continental army. Without positive knowledge, it is inferred that the family fortunes were at this time somewhat embarrassed. At all events it is related that John Overton purchased, with his own earnings, the law

books that he studied. He is said to have been a bookish youth, and must have been fairly educated, as he was for a while a teacher. He began the practice of law in Kentucky, but in 1789 moved to Nashville. It is said that he had at this time the beginnings both of a fortune and of a professional reputation. In the same month in which he reached Nashville came thither also Andrew Jackson, and between these two a warm friendship instantly sprang up, to be continued in unabated fervor throughout their lives. They occupied the same office, and were partners in all affairs outside the law. This was before the time when the vocabulary of Tennessee was reduced to the one word "Jackson," and the friendship must have been spontaneous and genuine. It is to be remarked here that Overton was at this time a Federalist.

From 1789 to 1804 he was actively engaged in the practice of law, not neglecting opportunities of increasing his fortune by other legitimate means. He was elected to the Superior Court in 1804, and served until 1809. In 1811 he was elected to the Supreme Court, and served till 1816. This was the formative period of Tennessee law, especially of the land law, and Judge Overton was peculiarly adapted to the work that fell to him. Judge John M. Lea, in an admirable paper on Overton, read before the Tennessee Bar Association in 1891, comments justly on the fact that English precedents were of comparatively little service to our Courts in settling land titles in Tennessee, under conditions wholly unknown in England. It does not appear that Judge Overton possessed extraordinary learning, or that he was what is called a brilliant man. He seems rather

to have excelled in common sense. His training in the law had been excellent, as appears from his opinions, but his superiority was most manifest in dealing with practical affairs. He must have been also by nature an exceptionally just and honest man.

Having a large, though not extraordinary knowledge of the law, and being clear of vision, just in purpose, and of much experience in affairs, he was able to render invaluable service in shaping the land laws of the State. In his ability as a land lawyer, by common consent, lies his chief excellence as a Judge, and his title to a high place in the annals of the profession. Though not conspicuously learned, he read largely and gathered a valuable library.

About the year 1820 he began active work for the election of General Jackson to the Presidency of the United States. He dedicated himself to the task, and labored at it with unfailing assiduity and determination. The caucus system was regarded as dangerous to Jackson, and Overton was a leader in the attack upon it and in the movement for the new plan of National Conventions. He was distressed but not dismayed by Jackson's defeat in 1824, and did not abate his efforts. When his friend was finally elected, and became the foremost man of his time in public life, Overton rejoiced in his success and was satisfied. He went with Jackson to Washington and was present at his inauguration, and whenever the President needed a friend, Overton was by his side, always faithful and devoted, always clear-headed, discreet, and wise. From his death-bed he sent to Jackson a message of friendship and admiration.

An admirable specimen of Judge Overton's style

of writing and method of reasoning will be found in the case of *Phillips, lessee, vs. Robertson*, Cooper's edition, 2 Overton's Reports, 399. The opinion is a long one, covering twenty-two pages in Judge Cooper's reprint, and deals exhaustively with certain questions of land law which were at that time, 1815, giving our courts much trouble, but many of which were permanently settled by this opinion. The terms "notoriety," "general entry" and "special entry" received in this decision the definitions which they have ever since borne in Tennessee. The attitude assumed by Judge Overton, in all cases of conflicting decisions where independent action was necessary, is indicated by the following language, taken from the opinion referred to: "Upon what principles is this contest to be conducted, is the question. Shall we adhere to the spirit and meaning of the Statutes of North Carolina, as interpreted by contemporaneous usage, modified by the practice of our own courts previous to the year 1806, or shall we strike out some other plan, adopt some new system, disregarding the ancient landmarks of law? Shall we adopt the systems of Virginia and Kentucky? That will not do, because, by the decisions of this Court, following the steps of our predecessors in the late Superior Courts, we have already far departed from them. * * * For myself, I can say that a strict adherence to the decisions of our courts, previous to the year 1806, will be observed so far as the principles of those decisions go, and when they fail, the Statutes of North Carolina, on which our own rest, with contemporaneous construction, will be the guide; not the fluctuating passions and interests of society, which change with times and circumstances."

The same wise conservatism characterizes all his decisions, but, as already indicated, circumstances were frequently such as to require him to make precedents instead of following them, and in such cases, the soundness of his judgment and the eminently practical quality of his mind are always apparent. He did not rashly disregard precedents, but was not helplessly dependent upon them.

Overton's connection with the establishment of Memphis forms an interesting chapter of his life. In May, 1794, in partnership with General Jackson, he purchased the Rice grant of land, at the mouth of Wolf River. Upon this land a large part of the city of Memphis now stands. The grant had been made by the State of North Carolina, and the land was not subject to occupation until the Indian title was extinguished. It is an evidence of Overton's excellent business judgment that, from the very first, he contended that the Chickasaw Bluffs must be the site of a great city. He made the investment confidently, and never for a moment lost faith.

Twenty-six years after the purchase, his expectations began to be realized. In 1820 the Chickasaw Bluff was laid off into streets and alleys; squares were set apart for pleasure grounds, and arrangements made upon a large scale for the establishment of a city. The place was called Memphis at the suggestion or request of General Winchester, who was interested in the Rice grant. How fully Overton's expectations were realized and his judgment confirmed is well known.

Judge Overton was mentally and morally a sound and strong man. All his qualities appear to have been

substantial rather than brilliant. He was cautious and conservative in reaching conclusions, but resolute in purpose, and in business was not afraid to assume risks. He was liberal in temperament, and while earnest in advancing his own fortunes, was a progressive and public-spirited citizen. Probably no man of his time contributed more to the material growth of the State. He is with propriety accorded a high place in the history of Tennessee, and his descendants may justly be proud of the good and honorable name that he has left them. He died April 12, 1833.

James Trimble is described as a man of many fine qualities. He was undoubtedly one of the best lawyers of his time in Tennessee; a modest man of gentle habits and much courtesy. His health was never good, and his style of speech at the bar is described as conversational, but very intense and singularly effective. His intellect was too active for a frail body, and he died from the effects of over-work. He was of Scotch-Irish descent, and was born in 1781 in Rockbridge County, Virginia, and educated at Washington College, East Tennessee. Studying law at Staunton, Virginia, he settled at Knoxville at a date not known, and in a short time thereafter was elected clerk of the General Assembly. In 1809 he was in the Legislature from Knox County, and in 1810 was elected Judge of the Second Circuit, defeating David Campbell. He moved to Nashville in 1813, and practiced law there until his death. He was a trustee of Cumberland College, was active in procuring the charter of the Nashville Female Academy, and was instrumental in securing Philip Lindsley for the presidency of Cumberland College. He was a Madisonian in pol-

itics, and in 1822 supported William H. Crawford in preference to Andrew Jackson. His reputation for professional skill and for integrity extended throughout the State, and attracted to his office a number of law students, among whom were Sam Houston, Aaron V. Brown, William E. Kennedy and George S. Yerger. He was a member of the Presbyterian church, and an elder. His death occurred in 1824. A short but appreciative sketch of him will be found in Professor Clayton's History of Davidson County, Tennessee.

No record of the birthplace of **Jesse Wharton** has been found. He was a man of great prominence in Tennessee in the early part of the century. He was a member of Congress from Mero District in 1807, and United States Senator from 1814 to 1815. He died at Nashville, July 22, 1833. His successor in the Senate was Colonel John Williams.

There is much doubt as to the nativity of **George W. Campbell**. In an excellent article recently published in the Knoxville Journal, William Rule states that he was born in Scotland. The American Encyclopedia of Biography fixes his birth in Tennessee in 1768, which is obviously incorrect. Of the half dozen or more books that have been consulted, a majority make Campbell a native of North Carolina, but nothing has been found to confirm the statement. His name indicates American origin, and while the date of his birth is not known, it is of record that he was elected to Congress from Tennessee in 1803, and it is therefore to be inferred that he was born during the Revolution. It seems hardly probable that at that time a resident of Scotland would have been bold enough to name a son for the arch-traitor George Washington.

Mr. Campbell came to Tennessee in the early days of our Statehood, having been admitted to the bar in North Carolina. In 1803 he was elected to Congress from Hamilton District, and was re-elected in 1805 and in 1807. Together with Hugh Lawson White he was elected Judge of the Supreme Court in 1809, and served till 1811, when he was elected to the United States Senate to succeed Jenkin Whiteside. Very little is known now of his record as a Senator, but he must have served acceptably, because in 1814 Mr. Madison appointed him Secretary of the Treasury, and in 1817 Mr. Monroe offered him the War portfolio, which he declined. In 1817 he was appointed Minister to Russia, and was at St. Petersburg until 1820. On his way to that city he stopped at Copenhagen, in pursuance of directions from the State Department, for the purpose of adjusting matters then in dispute between the United States and Denmark. Leaving Russia in the latter part of 1820, he returned to Nashville in 1821, and from that time until his death, which occurred February 17, 1848, he held no public office, except that in 1831 he was one of the commissioners upon the French spoliation claims.

Judge Campbell had thus a very distinguished career, and was in his time classed, as a lawyer, with Haywood, who seems to have been his close personal friend. He was in no sense a popular favorite or hero, like Jackson and Sevier, but owed his success solely to his ability. He was a thorough lawyer, and it is said that he shared fully in the general estimate of his abilities. There is in existence a printed copy of an advertisement in which he offered his professional services to the public, and in which he, in effect, declared himself

the foremost lawyer of the State. While it might not be difficult to find at any time a number of lawyers who have the same estimate of themselves, this is the only recorded instance in which the truth has been so frankly avowed. It may be that Judge Campbell was not altogether wrong. In any event, it is not to be denied that if he really made such a statement, he was an exceptionally candid man.

Notwithstanding the fact that no other Tennessean in the first two decades of this century, with the single exception of Andrew Jackson, held so many high places under the Federal government, Judge Campbell is almost forgotten. He seems not to have possessed the striking personal peculiarities that impress the masses. He was a scholarly and learned man, but his time was one of action, and he was not a man of action, but a student and a scholar.

He was Secretary of the Treasury at a trying time. Financial matters were very much disturbed, and party feeling intensely bitter. Naturally, his administration was repeatedly and harshly criticised. That criticism of this kind was largely unjust need not be said. As a lawyer, as a Judge, as a Senator, as a diplomat, and as a member of the Cabinet, Campbell displayed extraordinary ability, and as a public officer he reflected great credit upon his adopted State.

Under the Act of Congress of March 3, 1837, the number of Justices of the Supreme Court of the United States was increased from seven to nine. President Jackson immediately sent two nominations to the Senate. The first was William Smith, of Alabama, who declined the position on account of his age; and the second was **John Catron**, of Tennessee, who ac-

cepted, and was duly commissioned March 8, 1837. There is a difference of authority as to Judge Catron's birthplace. According to some, he was born in Pennsylvania. Albert D. Marks, in his History of the Supreme Court of Tennessee, gives his birthplace as Wythe County, Virginia, and the time as 1779. In Carson's History of the Supreme Court of the United States, it appears that his birth is assigned also to the year 1786.

Marks says that at an early age he emigrated to Kentucky, and thence to Tennessee in 1812, and that he was admitted to the bar in 1815, beginning the practice in Overton County, Tennessee. Carson says that he received a common school education, and in 1812 began the study of law in Kentucky, and was admitted to the bar in 1815, after four years of study, during which he devoted to his work sixteen hours a day. He served under General Jackson in the war of 1812, and was with him at New Orleans. In 1818 he removed to Nashville, having been previously State's Attorney for his circuit. He was elected to the Supreme Court of Tennessee in September, 1824, and was the Chief Justice of that Court from 1830 to 1836, being the first Chief Justice. Mr. Carson says that he owed his appointment to the supreme bench of the United States to the friendship of President Van Buren, "who had been attracted by his great knowledge of the laws applicable to land titles, a branch of unusual importance in the portion of the Union which he represented." It seems more probable that the appointment was the result of Andrew Jackson's personal regard for Catron. Jackson probably had known him from the time of the New Orleans campaign, and all

students of Tennessee history are familiar with the fact that Catron was a skilled politician, and a staunch adherent of Jackson. For many years he had been one of Jackson's most ardent admirers and most efficient supporters. In the campaign between Hugh Lawson White and Van Buren, Catron was particularly active in Tennessee, and there can be no doubt that Van Buren was under obligations to him, and did, therefore, favor his appointment to the supreme bench, but Catron's relations had long been much more intimate with Jackson than they had ever been with Van Buren. In the Van Buren-White campaign, Judge Catron's political tactics had been so skillful that many became confirmed in the belief that had gradually been growing up in Tennessee, that he had an unfortunate facility as a political manager.

Several stories are told of the methods by which Catron's appointment to the Supreme Court of the United States was secured. According to one of these, his wife being with him at Nashville, and hearing of the increase in the number of judgeships, virtually compelled him to start with her immediately for the national capital, not even telling him their destination until they had come to the Kentucky line; and having arrived at Washington, she hastened to the White House in the morning, before General Jackson had completed his toilet, found him in his dressing-gown, smoking his cob pipe, demanded her husband's appointment, and received the reply: "By the Eternal, he shall have it." * This is very good for a story.

Judge Guild has some interesting reminiscences of

* Hallum's Diary of an Old Lawyer.

Judge Catron. He says that "he was a large, well-proportioned man of swarthy complexion, with a fine black eye and a firm, manly face, indicative of intelligence, industry and a purpose to succeed in whatever he might undertake—to paddle his own canoe, and ask no favors. * * * * His citations of authorities showed that he snuffed the midnight lamp in the labor bestowed upon the cases intrusted to his care. He was a harsh, unpleasant speaker, with a squeaking, unmelodious voice, and his gestures were like those of a man engaged in a fight; but there was a continued flow of hard practical sense while his argument was so enforced by homely illustrations, that his speeches were not only interesting, but frequently convincing. He generally left a black eye before he came out of the battle." * Judge Guild, however, is mistaken as to the time when Catron went to Nashville, and when he went upon the supreme bench of the State, and probably confuses the parts borne respectively by Catron and Haywood in relation to the construction of the Acts of 1715 and 1796. He also misses by two years the time when Catron went upon the supreme bench of the United States.

Many events of Judge Catron's early life are imperfectly known, but it is certain that his parents were poor, and that his opportunities for education were very inferior. He was a growing man, however, and seems to have increased in intellectual stature until he became really one of the strongest men of his time. Like nearly all the great lawyers and Judges of his time in Tennessee, he gave more atten-

*Old Times in Tennessee, p. 459.

tion to real estate law than to any other branch of the science. But the lawyers of that day were general practitioners. The condition of affairs did not permit them to be specialists. Catron is remembered in Tennessee for his judicial utterances upon the subject of duelling, especially in the noted case of the *State v. s. Smith*.* In this opinion he describes with great force the different classes of men, as he conceived them, who accepted the code of honor. In that case an information had been exhibited to one of the Judges of the Circuit Court, charging that Smith, while an attorney of said Court, had accepted in the State of Tennessee a challenge, and had fought a duel in the State of Kentucky, and killed his antagonist. The Circuit Court ordered Smith to be disbarred, and he appealed to the Supreme Court. That Court affirmed the judgment, holding that it was good cause to strike the attorney from the roll, that he had accepted a challenge to fight a duel, or had fought a duel in a sister State, and killed his antagonist. A brief quotation will illustrate the spirit of Judge Catron, as displayed in this opinion: "To restrain the blind and criminal passions that drive to ruin the fearless and valuable man; to restrain the wicked vanity of the noisy coxcomb; and to protect from his misguided fears of giddy and idle ridicule the physically weak and nervous man, have mankind generally, and Tennessee in particular, legislated to punish duelling. * * * We are told that this is only a kind of honorable homicide! The law knows it as a wicked and wilful murder, and it is our duty to treat it as such. We are

*1 Yerger, 228.

placed here firmly and fearlessly to execute the laws of the land, not visionary codes of honor, framed to subserve the purposes of destruction."

This is strong language, in view of the fact that Judge Catron had always been a fighting lawyer, and had carried in his saddlebags with his clean shirts, a case of duelling pistols, which he is said to have been ready to use on slight occasion.

When the war between the States began, Catron espoused the side of the Union, and retained his place upon the bench. Leaving Nashville at the outbreak of hostilities, he did not return until the Federal authority had been re-established, when he reorganized the United States Courts.

The estimate of Judge Catron given by Carson in his History of the Supreme Court of the United States, is an exceptionally favorable one, as the following quotations will show: "His power of judicial analysis was remarkable, and he sought in all cases to weigh and examine every authority cited by counsel, and accepted such only as seemed to be founded on principle. * * * It was the testimony of his brethren of the bench that, in the learning of the common law and of equity jurisprudence, and especially in its application to questions of real property, he had few equals, and hardly a superior. He was distinguished for strong practical sense, firmness of will and honesty of purpose. He was candid, patient and impartial." *

"In the period immediately preceding the war many grave questions of constitutional construction confronted and divided the Supreme Court of the United

* Carson, p. 299.

States. In these divisions, according to the phrase of Justice Curtis, McLean and Wayne were the high-toned Federalists; Catron, Grier and McKinly were also Federalists in their tendencies, but much less pronounced; Woodbury, Daniel and Nelson were generally in accord with the Chief Justice." *

One of the more important opinions delivered by Justice Catron while upon the supreme bench of the United States, was in refusing a motion for a writ of habeas corpus *in re* Thomas Kaine. The petitioner was an alleged fugitive from Great Britain, and a question of extradition arose under the tenth article of the treaty of 1842 between the United States and Great Britain. A warrant had been issued by the United States commissioner at the instance of the British consul for the apprehension of a person who, it was alleged, had been guilty of an attempt to murder, in Ireland. Kaine had been committed for the purpose of awaiting the order of the President of the United States; he applied for a writ of habeas corpus, which was issued by the Supreme Court of the United States, and after a hearing the writ was dismissed and the prisoner remanded.

In the Dred Scott case, Catron delivered a separate opinion in which he concurred generally with Chief Justice Taney in his opinion as to the unconstitutionality of the Missouri Compromise Act, though he was of opinion that the judgment of the Circuit Court on the insufficiency of the plea in abatement was conclusive as to the jurisdiction of the Court. In other respects he concurred with the Chief Justice.

* Carson, p. 277.

In nearly all of Justice Catron's opinions there is a manifest leaning toward Federalist principles in construing the Constitution—an interesting and rather surprising fact, as he had been a lifelong friend and supporter of Andrew Jackson.

Among the important cases in which he delivered opinions may be cited the *License Cases*, 5 Howard, U. S., 404-633; and the *Passenger Cases*, 7 Howard, 283-572.

He died May 30, 1865.

One of the most pleasing figures in the legal history of the State is the Tennessee representative of the name **Return J. Meigs**. He was the son of John Meigs, and the grandson of Colonel Return J. Meigs, the Indian agent. Return J. Meigs, of Ohio, was his uncle. He was born April 14, 1801, in Clark County, Kentucky. His father gave him a common school education, and afterwards required him to take a special course in the classics and in mathematics. He studied law in Kentucky, and began the practice at Athens, Tennessee, in 1823. At that time the bulk of the litigation in that section was in connection with the Cherokee treaties of 1817-1819. The questions arising grew mainly out of the construction of the reservation clauses in the treaties. In the course of a few years he became known throughout the State as a lawyer of unusual ability, and in 1834 formed a partnership with James Rucks, at Nashville. He was afterwards associated with Judge John M. Lea, one of the most distinguished members of the Tennessee bar now living. In 1838 he was appointed State reporter, to succeed George S. Yerger, but becoming a candidate for a succeeding term, was defeated by West H.

Humphreys. The Legislature was Democratic, and Meigs was a Whig. In 1848 he began the preparation of his Tennessee Digest, which has been an invaluable book to the profession in Tennessee, and which has never been equalled by any similar work in the State, and probably never surpassed anywhere. It continued to be almost exclusively used by the profession for twenty years, and is the basis of the Digest of Tennessee decisions which is now most generally used. It is a lasting monument to the author. He was peculiarly adapted to the work by his habits of patient and scrupulous investigation, his extraordinary power of analysis and discrimination, and his gift of concise and clear statement. But the most remarkable fact about the Digest is that it shows a broad and thorough comprehension of the spirit of our jurisprudence as a whole. The author did not confine his attention to the particular subject or case on which he was working, but saw each subject in its various relations to cognate subjects. The book is therefore a harmonious work, not simply full and accurate in each individual part. The parts are jointed and fitted together so as to give an adequate view of our system of jurisprudence, and the Digest is not simply a succession of disconnected summaries of particular cases. In addition to all this, there is in it much learning and valuable historical information on the subject of the statutory laws of North Carolina and Tennessee. It is the work of a scholar and a philosopher, as well as a profoundly learned lawyer. We have had in Tennessee many lawyers who as practitioners equalled or surpassed Mr. Meigs, but probably not one who was more thoroughly learned in the law, or better quali-

fied to expound it. His Digest has every good quality of its kind, and no better fortune could befall the profession than to have it brought down to date, with the same thoroughness. But who shall do the work?

In 1852 Meigs was appointed, with W. F. Cooper, afterwards a Supreme Judge, to prepare a Digest of the Statute laws of the State. The two commissioners were engaged in this work from 1852 until the Winter of 1857-1858, when they made their report to the Legislature, and the Code was adopted. It is the only Code that Tennessee has ever had. There are three later compilations of our Statutes, all based upon this one, and following the admirable plan upon which it was constructed, but none of them has received official recognition, so that the Code of 1858 is in fact the Code of Tennessee to-day, and our Supreme Court has held that the Statutes of the State may be properly designated only by reference to the original Acts, or to this Code.

Mr. Meigs had no connection with politics, except that in 1847 he was elected to the State Senate from Davidson County, at the time when the State was most active in prosecuting its policy of public improvements; a policy with which he was in thorough accord, and which he earnestly advocated. When the war between the States began, he declared himself a Union man, and on account of the fact that Tennessee had arrayed herself upon the other side, changed his residence to New York in June, 1861. In 1863 he was called to Washington by Mr. Lincoln, and requested to prepare a Digest of the laws of the District of Columbia, but declined for the reason that, in his judgment, a knowledge of the laws of Maryland was necessary to the

proper preparation of such a Digest. On the same day that this offer was made to him he was, by the special request of Mr. Lincoln, appointed Clerk of the Supreme Court of the District of Columbia, and held that position until his death, October 19, 1891.

He was unquestionably the best qualified man in his peculiar lines of work that we have had at the bar of Tennessee. He was for many reasons an admirable man. No one knew the law better, and no man of his time in Tennessee was his superior in scholarly attainments. His reading was wide and thorough, and all his knowledge was digested and serviceable.

At the bar he was universally respected, and when he sought to do so, he commanded a lucrative practice, but unlike most men of unusual ability, he lacked ambition, or at least that kind of ambition which strives perpetually for display and for position. Some may say that the clerkship of a court was unworthy of a man of his ability, but it gave him a living, and he had already the respect of all who knew him, and had also the satisfactions that belong alone to the scholar's quiet life. If he had remained in Tennessee he might have led a more conspicuous life, but not a happier or more useful one. Probably he might have had in Tennessee any office that he would have accepted, but he did not return to the State after the war, preferring to continue the secluded life to which he had become accustomed.

It is part of the unwritten history of that time that when a Senator was to be elected, in 1865, the Legislature of Tennessee, seeking for a man of commanding ability and reputation, acting through certain of its members, offered the place to Meigs. The offer was

made by telegraph. He replied that he was not then a citizen of Tennessee and did not wish the office. He was importuned to accept it, but peremptorily declined. There is good authority also for the statement that the President offered him the place upon the Supreme bench of the United States, made vacant by the death of Judge Catron, but he declined it.

While he was a studious and retiring man, he was not without capacity for affairs, or force of character. He is said even to have been obstinate and intolerant of opposition, and at times inclined to use extremely vigorous language. A friend, who knew him well, says that he was by nature, as well as by training and practice, a Puritan.

Persons who have examined the State library at Nashville, will recall that it is a large collection of books, many of which are of great value and merit. There are many of these that would have been selected only by a man of "much literature," as Dr. Johnson would have said. It is creditable to the State that so much good taste and judgment should have been shown in selecting the nucleus of its library. The credit for this is due to Mr. Meigs, who was for a considerable time the State Librarian. It will be found that Tennessee has really an excellent library, if ever it shall be so arranged as to be available to students without the most exhaustive manual and mental labor in finding what is there.

Sam Houston, like Thomas H. Benton, belongs more to the history of another State than to that of Tennessee. Unlike Benton, however, he had risen to high position before he left Tennessee.

He was of Scotch-Irish descent, and was born in

Rockingham County, Virginia, March 2, 1793. His father, who had been a gallant and distinguished soldier of the Revolution, died in 1807, leaving the mother with six sons and three daughters dependent on her. As so many Americans of reduced fortunes have done, she sought to better her condition by moving westward. She came to Blount County, Tennessee. Sam Houston studied in the intervals of hard work, and it is related that he committed to memory the whole of Pope's translation of the Iliad, a tradition which the writer does not credit.

The family put him to clerk in a country store, but finding the business irksome, he fled to the Indians beyond the Tennessee River, and lived with them for five years. At the age of eighteen, finding himself in debt, he opened a school for white children and earned the money to pay his debts. The tuition was eight dollars a year. In 1813 he enlisted in the Thirty-ninth United States Regular Infantry, and was soon made a Sergeant. Proving himself an efficient drill master, he was commissioned as Ensign, and held that rank when his regiment led the fight in the great battle of the Horse-shoe, as already related in the sketch of Colonel John Williams. It will be recalled that in this hot contest, Houston was conspicuously gallant, and was desperately wounded. He was unable to be at New Orleans with Jackson, but after the close of the war was stationed there as First Lieutenant in the Thirty-ninth regiment. In 1817 he returned to Tennessee and was stationed at Nashville on duty in the office of the Adjutant-General, of the Southern Division. In the Autumn of the same year he was sent to execute a treaty made by General Jackson with the

Cherokees, and performed his mission to Jackson's entire satisfaction. But having conducted a delegation of Indians to Washington, he was met there with the charge that he had violated the law in his efforts to prevent the smuggling of negroes from the Spanish province of Florida into the Western States. The charge was easily refuted, but Houston was offended, and resigning his commission, went to Nashville to study law. He was at this time twenty-five years of age, and was deeply in debt. In June, 1818, he entered the office of James Trimble, and in a few months was admitted to the bar and opened an office at Lebanon. Shortly afterwards he was made Adjutant-General of Tennessee, with the rank of Colonel. His success at the bar was speedy, and in 1819 he was elected District Attorney of the Davidson District, and removed to Nashville. He held this office for only one year, and then resigned and entered upon a successful general practice. In 1821 he was elected Major-General of Tennessee, and in 1823 was elected to Congress without opposition, and was re-elected in 1825. So great had become his popularity, that in 1827 he was elected Governor by a majority of twelve thousand votes. The Legislature was composed almost entirely of his friends, and no man ever entered upon a high office under more favorable auspices. In January, 1829, he was married, and in less than three months had separated from his bride, resigned his office, given up the great future that was before him, abandoned civilized life, and returned to live among the savages who had been the friends of his youth, but whose dwelling-place was now in a far western wilderness. The motive which prompted this extraordinary conduct is not

known, and probably will remain forever unknown. From this time he has no part in the history of Tennessee.

It is the testimony of his contemporaries that Houston displayed genuine ability as a lawyer, and was capable of attaining a high place in the profession.

Among the more conspicuous figures appearing in the history of Tennessee within the first quarter of this century, was **John Henry Eaton**. He was a native of Halifax County, North Carolina, where he was born in 1787. He spent several years at the University of North Carolina, but did not graduate. After leaving college he studied law, and then came to Tennessee, but the exact date of his coming cannot be stated. By the year 1818 he had become sufficiently prominent at the bar to secure the appointment to a vacancy in the United States Senate. He received this appointment September 5, 1818, and being thereafter elected, served continuously until March 4, 1829, when he entered the Cabinet of Andrew Jackson as Secretary of War.

Mention has been made of the fact that public opinion pointed to Hugh L. White as the representative of Tennessee in Jackson's Cabinet, but Eaton, who, being more complaisant, was more acceptable to Jackson personally, forestalled White's candidacy by a very ingenious scheme. He wrote to White in effect, that Jackson desired one of them to be in his Cabinet. He knew White's character well enough to believe that when thus approached he would decline. The expectation was well founded, and Eaton received the appointment which he had eagerly coveted. He was a man of positive ability, and was an efficient Secretary.

The rather sensational incidents connected with his marriage with the beautiful but somewhat notorious, widow Timberlake, are well known. This marriage resulted in the breaking up of Jackson's official family, and in a vast deal of scandal and unpleasantness. But, while one may question Eaton's taste, it seems certain that public opinion dealt with him with undue severity, and that he is entitled to credit for loyalty to his wife. He was Secretary of War from 1829 to 1831; from 1834 to 1836 he was Governor of Florida, and from 1836 to 1840, minister to Spain. He created a decided sensation in the ranks of the Democracy by refusing in 1840 to support Van Buren, giving as his reason that while in Spain he had seen the workings of a hard money system, and had become impressed with the belief that it was wrong in principle. It was expected that his course in this matter would create a breach between him and Andrew Jackson, but it seems not to have had that effect. He died in Washington in November, 1856. He was one of Jackson's most zealous and influential supporters. The invasion of Florida by Jackson occurred during his first term in the Senate, and in the heated debate that followed, Eaton stood firmly for his friend.

About the year 1818, he published the life of Jackson which bears his name, and which Parton criticises as follows: "The best of all the popular lives of Jackson; valuable for its full details of the Creek war; not designedly false, but necessarily so, because written on the principle of omitting to mention every fact and trait of its subject not calculated to win general approval."

Eaton is described as a handsome, graceful man, a

fine elocutionist, and a good writer. His special distinction was won in politics and not at the law. In view of the fact that he was elected to the Senate at a very early age, he must, however, have displayed considerable ability at the bar.

The first male child born in the town of Knoxville was **Richard G. Dunlap**. The exact date of his birth cannot be given, but it was in 1793. He was educated at Ebenezer Academy under the Rev. Samuel G. Ramsey, and was a student when the war of 1812 began. He was at the time nineteen years of age, and being filled with martial ardor, raised a company of cavalry and tendered them to General Jackson, by whom they were accepted. Dr. Ramsey says that he became one of Jackson's favorites, and retained his good will and confidence to the end. He served with much credit at Mobile and at Pensacola. Whether or not he was at New Orleans does not definitely appear.

At the conclusion of the war, in 1815, he returned to Knoxville and began to study law in the office of John McCampbell. Dr. Ramsey is authority for the statement that he was a successful practitioner, but that the law was not altogether a congenial pursuit, and that he organized, at a date not given, a volunteer troop of light horsemen, of which he was unanimously elected commander. He held the office of Brigadier-General in the East Tennessee Militia during the troubles with the Seminoles in 1836. In 1831, he was elected to the Legislature from Knox County. He appears to have been one of the champions of public improvements, and Ramsey refers to him as the "father of our system of common schools." The exact service that he performed in this last respect is not shown by

any accessible authority. In 1835 he was for a short time a candidate for Governor, but withdrew from the contest on account of ill-health.

Soon after the termination of his services as General of Militia, he went to Texas, and at a subsequent date was made a member of the Cabinet of that Republic, and then sent to Washington as minister plenipotentiary. While there he was married, but survived the marriage only about a year.

The facts here recited are taken from a sketch of General Dunlap, which was printed by Dr. J. G. M. Ramsey in the Knoxville Argus of July 21, 1841, for a copy of which the writer is indebted to Governor James D. Porter, who married a daughter of General John H. Dunlap, of Paris, Tennessee, a brother of Richard G. Dunlap. Dr. Ramsey speaks of General Dunlap in terms of the highest praise.

He seems to have been a man of a high sense of honor, and an ardent lover of liberty. He was not conspicuous as a lawyer, but was a man of energy and ability, and was best satisfied when in action. The monotony and drudgery of the lawyer's life were distasteful, and he sought an outlet for his restless energies in active pursuits. Military life attracted him, and in it his abilities were best displayed. His record shows him to have been an honest, brave and worthy man.

Reference has been made to the admission of **Joseph Hamilton** to the bar of Tennessee, and to the fact that he was a son-in-law of Alexander Outlaw. Mr. Hamilton was one of the notable men of his time, and it is unfortunate that so little of his history has been preserved.

His family was, as the name indicates, of Scottish origin. It was one of the many staunch Presbyterian families that came to America by way of Ulster, in search of religious liberty. Many of these Scotch-Irish families trace their lineages back to very honorable beginnings. This branch of the Hamiltons has upon the distaff side an ancestress, Margaret Wallace, who was a direct descendant of the great Sir William of that ilk, the national hero of Scotland. Robert Hamilton, the father of Joseph, came from Scotland and settled in the valley of Virginia, on Carrs Creek, in Rockbridge County. Here Joseph was born in 1763. He received a classical education at Liberty Hall, which afterwards became Washington College, and is now Washington and Lee University.

He came to Tennessee in 1784, having been admitted to the bar in his native State. Among the lawyers with whom he was associated were David Campbell, Archibald Roane and Joseph Anderson. For forty years he was an active practitioner, and it is said, was generally referred to as the "honest lawyer." This must have been a very gratifying and enviable distinction, because Anderson, Roane and nearly all of his associates were honest beyond question.

Joseph Hamilton's wife was the third daughter of Alexander Outlaw, and to the marriage were born eleven children. Among the descendants are the Gammons, of Jonesboro, and of Knoxville; the Blairs, of North Carolina, and the Van Dykes, of Athens and of Chattanooga. Collaterally the family is connected with the Daviess family of Kentucky. Everything that is known of Joseph Hamilton is creditable. His

descendants hold him in the greatest esteem and reverence, and undoubtedly he was both a good and an able man.

Judge **Edward Scott** was a person of many peculiarities. It is not claimed that he was a man of broad and comprehensive mind, but he was a diligent student, had a tenacious memory, and prided himself on his ability to cite and to quote cases. It is said of him in Goodspeed's History of Tennessee, that he administered the law as he remembered it, seldom throwing himself on his own resources. This was true generally, but on at least one occasion he made a decidedly original ruling. It will be remembered that in early times there was a mystical phrase current in Tennessee, and perhaps elsewhere, whose origin is unknown and whose significance, while admitted to be in the highest degree offensive, has never been defined. This phrase was "school-butter," and for a member of one school to apply it to a member of another was to offer an unpardonable insult. A fight was the invariable result, except when the offended party was superior in number, and then the rule was to duck the offender. Many instances of the infliction of condign punishment for the use of this mysterious and offensive epithet are recorded.

While Judge Scott was on the bench, a young man was arraigned before him on a charge of assault and battery. It appeared in the testimony that the assault had been committed upon the prosecutor for saying "school-butter" to the defendant. Judge Scott charged the jury that the use of the epithet was equivalent to striking the first blow, and the defendant was acquitted. This was a departure from the estab-

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lished rule that no words justify a blow, and proves that for once, at least, Judge Scott did rely on his own resources.

He resided at Knoxville and served upon the Circuit bench from 1815 to 1841. His manners were not pleasant, but he was a just and well-meaning man, otherwise he would not have been retained on the bench so long.

In 1820 he published his "Revisal" of the Statutes of Tennessee, and of the Charters and Statutes of North Carolina, which is even now a book highly valued by the profession. It is a careful, trustworthy and creditable piece of work. It has preserved the author's name in the profession, and will never cease to be useful and interesting.

One of the old-time Judges and public men of Tennessee worthy to be remembered, but now almost forgotten, was **James C. Mitchell**. He was the son of James Mitchell and his wife, Mary Coffield, and took his middle name from his mother. He was born in Staunton, Augusta County, Virginia, on March 10 or 11, 1786, and was married to Margaret Lewis, in Sevier County, Tennessee, May 7, 1807. His wife was of the Eastern, or Welsh branch of the Lewis family, which played so important a part in colonizing Augusta County.

After his marriage he resided for a time in Rhea County, Tennessee, but about 1817 removed to Athens, in McMinn County. In 1813 he was made Solicitor-General for the second district, and served till 1817. In 1825 he was elected to Congress from the third congressional district, and was re-elected in 1827. He thus served with James K. Polk, John Bell and David

Crockett. Our Senators at this time were John H. Eaton and Hugh L. White.

In 1830, the year succeeding his retirement from Congress, Mitchell was elected Judge of the Eleventh Circuit, and held that office until 1836. Retiring from the bench he, like many other prominent Tennesseans, was seized by the "Mississippi fever," and removed to the new State during its "flush times."

He now ventured upon cotton planting on Big Black River, about thirty miles from Vicksburg. Probably he combined the practice of law with planting. It appears, however, that his agricultural efforts were not crowned with success, and he discontinued them in favor of his first love, the law.

His political aspirations had not subsided and he was at one time a candidate for the Mississippi Legislature, and later was a candidate for Governor, but, being a Whig, he was in both instances unsuccessful. He made a very acceptable Judge, administering the law with ability and maintaining the dignity of the Court, even to the extent of fining a spectator for wearing creaking boots. He is remembered as a tall and strong man, more than six feet in height, of fine proportions and prepossessing appearance. His voice was particularly good and he was an effective public speaker. He was not without self-esteem, but it is to be suspected that the accounts of him that have been preserved exaggerate this amiable failing. His sense of humor was fine, and was effectively used on the stump. One of his witty sayings was also a wise one, and deserves the careful consideration of all politicians. Discussing the art of political speaking, he declared that it consisted mainly in never making a distinct

point. To use his own phrase: "A speech of this kind should be blown up like a bladder, leaving no handle to be seized by an adversary."

Judge Mitchell was a man of ability, and an upright and capable Judge, and fully deserves the respect of posterity and an honorable place in the annals of the bar of Tennessee. He died at Jackson, Mississippi, August 17, 1843.

One of the best lawyers of Tennessee in the first half of this century was **George C. Boyd**, of Clarksville. He belonged to the class of pure lawyers, that is to say, a class that adheres strictly to the law, giving attention to nothing else. Mr. Boyd was not a narrow or uncultured man. Upon the contrary, it seems that he was well educated, but after entering upon the profession he gave it his exclusive attention.

He was born in Virginia, but the place and the date of his birth cannot be stated. In his youth his father moved to Christian County, Kentucky, and he was educated in the literary, and also in the law department of Transylvania University, at Lexington.

After leaving the University he moved to Clarksville, Tennessee, and completed his law studies in the office of Cave Johnson.

He practiced law at Clarksville until his death, which occurred in 1847. Like all the successful lawyers of that time, he rode the circuit. In his case the circuit embraced Montgomery, Robertson, Dickson, Stewart and Humphreys Counties, in all of which he practiced with success. It is said that he almost invariably had one side in the more important cases, in all this circuit. His reputation extended into Kentucky, and he frequently appeared in the Courts at Hopkinsville and

Russellville. In politics he was a Whig, and was repeatedly urged to run for Congress against Cave Johnson, but he held Mr. Johnson in the highest esteem, and not only refused to antagonize him, but voted for him.

He was a great admirer of Mr. Webster, whom he regarded as the foremost American lawyer.

His memory was marvelously retentive, and he could cite the volume and page of all our more important decisions. Gustavus A. Henry said of him: "His mind was too much engrossed in delving down to the reason and foundations of every legal principle, to have time to indulge in elegant and ornamental rhetoric. He did not disdain these things, for no man was more moved by true eloquence than he, but the bent and inclination of his mind was toward profound legal investigation, and close and earnest thought. He was the best lawyer of his age I ever knew, and would have risen to the head of the profession in Tennessee had not his life been cut short in early manhood."

Mr. Boyd was married in 1842 to Miss Virginia C. Conrad, of Springfield, Tennessee. It is with special pleasure that the writer contributes his mite toward rescuing from neglect the memory of a man like Mr. Boyd. He was supremely devoted to his profession, and by his abilities and high character improved and honored it. He preferred the law before everything, and we should be ready to do honor to the memory of one who manifested so high and just an estimate of the dignity of our profession.

CHAPTER IV.

Hugh Lawson White.

In his admirable book, "The Winning of the West," Theodore Roosevelt calls attention to the fact that whereas all the Southwestern States were first settled by a class of people whom he calls backwoodsmen, this rough and hardy race did not retain control, except in Tennessee. In Kentucky and elsewhere, political power quickly passed into the hands of a more cultured and opulent class which followed in the footsteps of the pioneers. In Tennessee this was not the case; upon the contrary, the pioneers and their descendants have always been dominant, and society, while greatly improved and refined, has retained the general tone which the first settlers gave it.

This is as accurate as any general statement could be. Tennessee has never been an aristocratic State, but always essentially democratic. The first settlers were thorough-going democrats, and their institutions were as democratic as the conditions of the times permitted. We have the word of Mr. Jefferson for it, that our first Constitution was the most republican of its time.

These democrats who thus seized and held Tennessee, were in the main of that highly composite but thoroughly defined race which we call Scotch-Irish; lowland covenanters transplanted to America. This

was the most independent of races, John Knox being its ideal of manhood. Coming into the wilderness the Scotch-Irish found much to develop the harsher qualities of their race. The frontier was no place for the refinements of life. Indian warfare was infinitely fierce, brutal, horrible. It was practically incessant, and the butcheries of the savages not unnaturally provoked the frontiersmen to acts of cruel retaliation. Such results were all the more certain among men whose law was the Old Testament, and whose ideas of war were drawn from the histories of Joshua, of Barak, and of Gideon. These bloody encounters of the frontier brought out the old Norse fierceness of the race. It was a fighting stock, and if its piety was not only sincere, but at times painfully strenuous, the life of the frontier could hardly have failed to develop anew whatever of harshness there was in the blood.

The highest type of this frontier mind is Andrew Jackson, a man of unsurpassed physical and mental courage, determined beyond all the needs of life, narrow, uneducated, honest, sincerely patriotic, fierce in temper, cruel in battle, vindictive and unforgiving—an astonishing compound of good and bad qualities, but indisputably one of the great men of our country. But the Scotch-Irish were not all of this quality. In Scotland, in Ireland, and in America the race had been the friend of education, abounding always in pious and fervent preachers of the Word. Through Pennsylvania, Virginia, North Carolina, Kentucky and Tennessee, school-houses and churches mark the courses of its westward marches. If many yielded to the hard and coarse conditions of frontier life, very many more did not. Some were more fortunately situated, some

had minds and morals of a firmer cast. The Scotch-Irish race had its full share of faults, but of virtues also. Energy and courage fitted it for the conquest of the wilderness, and in love of liberty and of learning, and in faith in God, it laid well the foundations of a new Christian civility.

Of the higher and finer qualities of this race there has been no better representative than Hugh Lawson White.

We do not know the history of the family beyond the General James White who was the father of Hugh Lawson and the founder of Knoxville. James White was not without education, and though his means were not large at first, he was naturally qualified for leadership, and won for himself an honorable place in early history. He was a man of strong character, apparently of natural gentleness and refinement, but fearless and firm. His wife, Mary Lawson, is described as a delicate and refined woman, of exemplary Christian character, not lacking decision.

The first child of this union was the subject of this sketch. He was born in Iredell County, North Carolina, October 30, 1773. When he was eight years old his father came to what is now Knox County, Tennessee, where he acquired large bodies of land, including most of the territory of the present city of Knoxville. A house in which he passed much of his life in Tennessee, is described as follows by one of his descendants:

"A front view displays two square sections, 'pens' or apartments of unequal size, each a story and a half high, built of logs coarsely hewn, the interstices of which are stuffed with clay, and with an outer covering of boards.

Between these two rooms stands a heavy stone chimney, furnishing a fireplace in each. A rude piazza extends across the whole front, its roof some distance below the eaves of the house, and supported by six slender sawed posts. The whole stands upon wooden blocks or underpinnings; one small window is visible, while a small stepladder in one corner of the piazza is the stairway to the half story above."

In this home, or in one like it, subject to all the privations and dangers of frontier life, Hugh Lawson White grew to manhood. The time abounded in perils, and the safety of the home frequently depended upon the rifles of the group of sturdy sons who were growing up around James and Mary Lawson White. The neighborhood possessed a single tub-mill, and to the eldest son fell the arduous and perilous duties of mill boy. He made a "hand" at plowing and at clearing the forests, and when he was not needed for these various duties, attended such schools as the settlement afforded.

Only the rudiments of learning were to be acquired in the log school-houses, but ere long there came to the new settlement one of those missionaries of education, of whom so many marched in the van of the westward progress of the Scotch-Irish, and at the age of fifteen, young White began to study the ancient languages under the Rev. Samuel Carrick, who was to be the first President of what is now the University of Tennessee. Occasionally also, he was assisted by Archibald Roane, who is described as a "scholar of eminence."

His pursuits were destined to be still further diversified, when, in 1793, an Indian war began, which led

to Sevier's last and famous expedition to the Indian country, and ended in the battle of Etowah. In this battle White shot and killed the Indian leader King Fisher, and it is related that he was so overwhelmed with regret at having shed the blood of a human being, even in honorable combat, that he would not suffer the deed to be mentioned in his presence. His granddaughter and biographer declares that he positively forbade Dr. Ramsey to state the fact in the *Annals of Tennessee*.

At the age of twenty he became the private secretary of Governor William Blount, succeeding Willie Blount, the younger half brother of the Governor. As Judge White was distinguished in after life for dignity and courtesy of deportment, and a knowledge of the usages of refined society, it is to be inferred that, in addition to the excellent training which he received at home he profited largely by association with the courtly Governor and his accomplished wife. Blount was a man of distinguished family, tracing his lineage back to the time of the Conqueror. He had moved in the highest Colonial society and was justly considered a model of dignity and of deportment. He was at this time not only Governor of the Territory, but also Commissioner of Indian Affairs, and White acquired a knowledge of these affairs which was utilized to the great advantage of his reputation, and of the public service when he became United States Senator.

There is some uncertainty of dates at this point. It is related that about 1794 White went to Philadelphia for the purpose of studying mathematics. He appears to have remained there something like a year, when he went to Lancaster, Pennsylvania, to study law. In

1796 he began the practice at Knoxville. His success at the bar was prompt. To a deserved reputation for integrity and ability, he added incessant and scrupulous industry. If he was fortunate in having the support of a large and influential connection, his success was in no degree artificial, but was the just reward of substantial merit and ability.

In 1801, at the age of twenty-eight, he was elected a Judge of the Superior Court, at that time the highest judicatory in the State. In 1807 he resigned to enter the State Senate. In 1809 he was appointed United States District Attorney, and this office also he resigned to go into the State Senate. At the close of his second Senatorial term, in 1809, he was appointed a Judge of the Supreme Court of Errors and Appeals, and retained that office until 1815. He had been elected President of the Bank of Tennessee in 1812, and after retiring from the bench served in that position till 1827. In the meantime, however, he had been elected again, in 1817, to the State Senate, receiving every vote cast in Knox County except one. In 1807 he had compiled the land laws of Tennessee, and in 1817 had prepared and secured the passage of the first effective law in Tennessee against duelling, and it may be remarked in passing that he did infinitely more than any other man for the establishment of the laws and of the strong adverse sentiment which have suppressed this custom in Tennessee.

In March, 1821, he was appointed Commissioner under the Florida treaty with Spain, and served until June, 1824. During this service he retained his position as President of the Bank of Tennessee, but refused to accept any compensation, although he dis-

charged the duties of the office with efficiency and to the entire satisfaction of the bank and its patrons. The versatility and the superiority of his abilities are forcibly indicated by the fact that the Bank of Tennessee, under his management, was the most successful financial institution that has existed in Tennessee. It was the only bank in the State that weathered all the financial storms of that tempestuous period.

The published opinions of Judge White are to be found in Cooke's Reports. They are simple in language, yet correct and excellent in style, displaying a mastery of legal phrase, without ostentation. His mental processes appear to have been direct and incisive. There is not much of quotation nor of reference. On a smaller scale he performed services like those which immortalize Marshall. It was his business in a new country, under new conditions, to make precedents rather than to follow them. There is nothing to indicate an inclination hastily or wilfully to override established rules, but much to prove that it is true, as has been written of him, that he was neither a case lawyer nor a case judge, but was guided by a large and accurate knowledge of the essential principles of the law, and by a strong natural sense of justice.

In October, 1825, Andrew Jackson, United States Senator from Tennessee, resigned, and White was elected to succeed him. He was elected three times, practically without opposition. In politics he was what we would call a Democrat, though then called a Democratic-Republican; that is to say, following the lead of James Madison, the greatest constructive statesman this country has produced, he believed in the strict interpretation of the Constitution, and this

time-honored Democratic principle was his guiding star throughout his political career.

His first conspicuous appearance in the Senate was in the great, but forgotten debate on the Panama Mission. The subject of the debate was the proposition that this government should join the other American republics in a convention on the Isthmus of Panama. The excellence of the declared purposes of the convention attracted a strong support in Congress, but White opposed it both upon principle and upon the ground of inexpediency. His granddaughter, who is his only biographer, does not give her authority, but quotes some one of eminence as saying that his speech on this question was "the ablest exposition of the powers of government made during the discussion." The opposition was unavailing, the Commissioners were appointed, but the convention was never held.

A subject constantly before Congress during Judge White's service was that of internal improvements. It was upon this question that the strict constructionists always fought the hardest, and White, true to his Madisonian principles, was found in every instance in opposition to the appropriations, which, though not as large as at present, were sought with no less avidity and selfishness.

The great question of the time was the re-chartering of the United States Bank. The existing charter had been granted in 1816 for a term of twenty years. Judge White had aligned himself on this question long before his election to the Senate. While a member of the Tennessee Legislature in 1817, he had vigorously opposed the establishment of a branch of the bank in Tennessee, and had been known for many years as an

opponent of the institution. He regarded the charter as unconstitutional, and believed that the method, whether constitutional or not, was inexpedient and impolitic. The management of the bank being aware of the unfriendliness of General Jackson, began as early as 1832, an effort to secure an extension of the charter which expired in 1836. When the question came before the Senate, White opposed the extension in a vigorous and effective speech. His kindly disposed biographer, as might be expected, praises this effort also without stint. There seems to be no doubt, however, that it was the strongest argument of the administration. He was probably the most experienced and the most competent financier of either party in the Senate.* The bill passed, and, as every one expected, Jackson vetoed it. Upon the debate over the veto message, Webster led for the bank and White against it. Our biographer again bestows unqualified praise upon her kinsman's speech, intimating that Webster did not attempt to answer it because he could not meet the argument. Despite the fact that Webster was indisputably the greatest intellect of his time, we may be tempted to believe that he could not answer the Tennessean because it is well known that, in matters of finance, whether public or personal, he was never at his best.

In 1833, Jackson removed the government deposits from the Bank of the United States and distributed them according to his own judgment, or as was said by his enemies, according to his own interests, among the

*Of Judge White's ability as a financier Henry S. Foote says: "Some of his most elaborate speeches in the Senate upon important questions of finance are perhaps as valuable specimens of politico-economical discussion as can anywhere be found."

State banks. This action, which was denounced by the opposition in unmeasured terms, was approved by Judge White, who believed that the President had the constitutional right to remove the deposits whenever he believed that they were in danger, and the President had no difficulty in making the necessary declaration at this time.

Being a man of humane sentiments, of fine natural sensibilities, highly cultivated, his knowledge of the treatment of the Indians by the government enlisted White's sympathies very earnestly in behalf of the red men, and not a little of the policy of the government in removing them to new lands in the West, instead of permitting them to be exterminated, is to be attributed to him. He was untiring in his efforts to ameliorate the condition of this unfortunate race.

He had not long been a Senator before his unfailing independence of character began to give dissatisfaction to his political associates. General Jackson and his friends, according to the custom of politicians, had assisted themselves to success by bitter denunciations of all the methods and policies of the Adams administration. It is edifying to know that one of the principal misdemeanors which Jackson charged against Adams was the abuse of the executive power in public appointments. Another charge was that he had countenanced a duelist, Henry Clay. It is to be presumed that General Jackson did not personally instigate this accusation. In 1826, while Adams was President, Judge White spoke strongly against the abuse of patronage. In 1830, the subject being again before the Senate, and the policy of the Jacksonians having been more extreme than that of their predecessors, White

was unable to grasp the principle of party philosophy, that a thing which was wrong when done by his opponents was right when done by his friends. He, therefore, took the same position which he had taken in 1826. This grave political error was highly offensive to General Jackson and his friends, especially to the General, to whom it never occurred that one could oppose his opinions or wishes without being an enemy of the President and therefore of the people.

When Jackson removed the deposits in 1833, the Senate passed a resolution of censure. White opposed this resolution, but when, at a later date, Benton brought forward his famous and persistent expunging resolution, he opposed that also upon the firm ground that the Senate had no right to mutilate its own records, and could not, as Mr. Clay put it, "make that not to be which is." In this matter also he incurred the disapproval of the President.

The records have been carefully searched to discover his opinions upon the subject of slavery, the writer having become greatly interested in the emancipation petitions and debates of the Constitutional Convention of 1834, as indications of the mind of the people of Tennessee on this vexed question. There is no positive expression of his personal judgments, but as a Senator, he opposed the consideration of abolition memorials on the ground that the subject was one with which Congress had not the right to deal.

Upon the proposition to distribute the surplus proceeds of the public lands, he was at first in opposition, because the treasury was empty and the government was in need of money, but when it was subsequently presented in 1836, he favored it, because at that time

we were out of debt and the treasury was literally overflowing.

He was one of the first and most strenuous advocates of holding the public lands for actual settlers.

Upon the subject which was to furnish his enemies the means of terminating his political career, to-wit, the sub-treasury, his convictions were strong and immovable, and he did not at any time hesitate to avow them in the most emphatic speech. The sub-treasury bill was the distinctive measure of the Van Buren administration.

Judge White declared the principle ground of his opposition to be that the bill contemplated the issue of paper money by the Federal government. This he held to be unconstitutional, and he predicted that the inevitable result of adopting such a measure would be the creation of unlimited quantities of paper which was sure to become depreciated; and upon this subject he said, "No paper currency not convertible into specie at the will of the holder, ever did or ever will long retain its nominal value."

Upon the great and interminable question of the tariff he was essentially a Democrat, that is to say, he was opposed on principle to protection.

From this hasty statement it will appear that he was a thorough-going Jeffersonian and Madisonian Democrat, and that he was a Jacksonian Democrat in every respect save one, that is to say, he did not accept the Jacksonian dogma that the President could do no wrong.

Jackson was six years older than White, and the friendship between the two dates from White's appearance at the bar in 1796. This friendship grew and

strengthened through many years, and ended only when Jackson became convinced that White had a will of his own, and convictions of his own which were not to be overthrown by threats or entreaties, nor by the seductions of ambition. The degree of intimacy which existed between them is indicated by the following words, which were written by Judge White himself: "For many years I have been on the most intimate and confidential terms with the chief magistrate. We have conversed with, and written to each other, perhaps with as much freedom as if we had been brothers." During the early part of Jackson's administration the policy of the government, in finance and in Indian affairs, was practically controlled by the Senator from Tennessee. It is evident that when he was first elected Jackson was not unmindful of White's right to a place in the Cabinet. In February, 1829, a month before the inauguration, Major Eaton wrote to Judge White a very astute letter in which he said, "General Jackson desires to have either you or me near to him." Eaton knew beforehand what reply he would receive, and the result is apparent in his extraordinary but arrested career as a Cabinet officer. In 1831 the President proffered the War Department to White, but it was declined. During the years 1829, 1830 and 1831, it was Judge White's earnest desire, on account of family afflictions, to retire from the Senate, but he remained solely on account of the solicitations of the President and his friends. A letter which was written by Jackson October 12, 1829, is preserved. It abounds in expressions of gratitude and almost of affection.

It is apparent that by the close of 1832 the estrangement of these old friends had begun. In May of that

year White, writing to a friend in Knoxville, said, "I am for General Jackson, but I am not either a Calhoun-Jackson man or a Van Buren-Jackson man. I will go on exactly as I have done, making myself as useful as I can, determined to leave myself at liberty, when General Jackson is off the stage, to exercise my own judgment on the question of a successor."

There is a note of pathos, almost of tragedy, running through his history from 1832 to the end of his life. His attachment to Jackson was strong and sincere, and of many years' standing, and the severance of their relations under circumstances which caused him to believe, correctly or incorrectly, that Jackson was both insincere and ungrateful, must have been infinitely painful.

No effort is made here to declare the right and the wrong of the controversy between these two great Tennesseans. But it may be said that while it is hardly possible that White could have been so absolutely free from blame as his friends would have us believe, the right of the controversy was in the main on his side. This was the verdict of the people of Tennessee by a majority of more than ten thousand.

Mr. Sumner, in his life of Jackson, says in an off-hand way, that White was piqued on account of Jackson's failure to appoint him to his first Cabinet. This is probably true, but the feeling did not last long. Throughout Jackson's first administration, White was his staunch supporter and confidential friend. It seems to be clear that the trouble had its origin, as already indicated, in White's independence of character and absolute loyalty to his convictions. He could not see why abuses of executive power were

wrong when committed by Adams, and right when committed by Jackson. He regarded the expunging resolution as unreasonable and absurd. On various occasions he had found his convictions in conflict with the imperious will of his illustrious friend.

The purity and strength of Judge White's character, and the excellence of his abilities, had so impressed themselves upon the public mind that, in 1833, he was regarded by many as a proper man to be President. This fact of course was known to General Jackson. It is to be doubted whether or not, under the circumstances, Jackson would have been favorable to White's election to the presidency. It is asserted that at one time he did favor it, and it is of record that when advocating Van Buren's nomination, he expressed a willingness that White should have the place after Van Buren had served eight years; but from the very beginning of his first administration it would appear that he cherished the design of making the astute New York politician his successor. If Van Buren was not a statesman, he possessed a degree of intelligence and of cunning which made him a most successful and dangerous politician. He had been the chief support of Jackson in New York, and had, by the arts of which he was a consummate master, firmly ingratiated himself with the President.

Between White, the embodiment of lofty patriotism, and Van Buren, whom he regarded as the incarnation of selfish ambition and political cunning, there was nothing in common. White did not understand that his personal friendship and political loyalty to Jackson required absolute obedience to the President, and an unqualified surrender of his opinion upon every sub-

ject upon which they might disagree, and he would not support Van Buren. The President being determined that this faithful henchman should be his successor, sought to dispose of White by placing him upon the bench of the Supreme Court, and failing in that, caused him to understand that practically any office of his own choosing was open to him. Finally he endeavored to have him take the second place upon a Van Buren ticket.

As the sentiment in favor of nominating White for the presidency became more pronounced, Jackson declared that if he accepted he would be made odious to society. This seems to have been the direct cause of White's candidacy, or rather it was the harsh expression of the sentiment and of the policy which he felt himself bound in honor, as well as by a feeling of natural indignation, to resist. Upon this subject, he said in a speech in Knoxville, August 1, 1838, "This threat answered a purpose that the persuasion of friends could not. Despotic power never has governed and never shall govern me. My name was given to the public, and should have been if the act had lost me the good opinion of every political friend I had upon earth, and I might almost add, if it had even endangered the good opinion of my wife and children."

It was in the year 1834 that it pleased the President to promulgate this edict. In December of that year a majority of the Tennessee delegation in Congress sent a written request to White to become a candidate, and he promptly consented. Instantly a war of vituperation and slander was flagrant. The administration organ at Washington, long trained in methods of invective and misrepresentation, endeavored to make

its charges and epithets equal to the wishes of its imperative master. Nothing was left undone to fulfill the executive threat that the man who had been guilty of the unspeakable crime of differing with General Jackson, should be made odious to society. John Bell, one of the purest, best, and ablest men in the history of Tennessee, being White's most conspicuous supporter, also fell under the presidential anathema, and felt the full fury of a partisan press, less refined by far than the press of our own time, and incited to extraordinary coarseness and bitterness by a desire to win the approval of the autocrat of the White House.

Jackson directed a convention to be called for the purpose of securing the claim of the successor apparent. In May, 1835, it was held at Baltimore, and the forefather of Tammany was named to succeed his illustrious master. There was no delegation from Tennessee, but the vote of the State was cast by a gentleman of the name of Rucker, who happened to be present, and who by this act attained a conspicuity otherwise hopelessly beyond his reach.

James Parton, the most voluminous and perhaps the best biographer of Jackson, says that for seven years the President had schemed and labored to elect Van Buren, and that leaving New York out of consideration, Van Buren's election was as much Jackson's act as if the Constitution had empowered him to appoint his successor. Strangely enough, Tennessee, with all its devotion to Jackson, was from the beginning unfriendly to Van Buren. The press of the State, by a majority of more than two-thirds, including both the Nashville papers, was for White, so that a new paper, the Union, was established at the capital

as the Van Buren organ. Every charge that ingenuity and malignity could suggest was made against the daring apostate from Jacksonism, and the President came all the way from Washington to fight for his nominee. It was thought the wisest policy to make it appear that the fight was between White and Jackson. The President denounced White, who was the most democratic of Democrats, as a Federalist, and sought to cast opprobrium on his supporters by calling them Whigs. In this, as in all his battles, Jackson "acknowledged no criterion but success."

It is proper to say here that while the utmost freedom has been used in describing Jackson's conduct in his relations with Judge White, it is not the writer's purpose to speak disrespectfully of a man who was deservedly eminent, and who was in many respects truly great. There was never a more sincere patriot than Andrew Jackson, and when his vision was not distorted by those terrible passions which repeatedly hurried him into the most lamentable errors, there was no more honest or honorable man. But the violence of his passions, and his inability, or at least his failure, to control them marked his career with acts which were unworthy of the least of men, much more one of the greatest. We cannot agree with Mr. Parton that Jackson's election to the presidency was a mistake. He was one of the best and most useful of the Presidents, and it might be well for the country to have another Jackson. Above all things else, we need men of convictions, and it may be asserted safely that few men have had so many convictions as Andrew Jackson. But no degree of respect or admiration for Jackson should blind us to facts in the study of history. That

he did Judge White great injustice seems to be beyond dispute; that he used the influence and power of his great name and station to perpetuate his own rule, through his subservient follower, Van Buren, is as certain as anything can be. When his blood was stirred and the fury of battle was upon him, he fought with all the weapons he could find. And it was not difficult to stir his blood. The fighting instinct never slumbered. Woodrow Wilson says truly that every man who opposed him became at once his enemy.

As affairs in Tennessee progressed, Jackson became more and more embittered. It soon became apparent that the hero's name had lost its spell. The success of John Bell in the August election was infinitely galling, and things went from bad to worse. Polk found the sentiment for White so strong that on the stump he declared his personal preference for him. Cannon who was for White, defeated Carroll, who was for Van Buren, by 7,000 majority in the Governor's race. Above all White carried Tennessee by ten thousand majority. In the Hermitage district he received 43 votes and Van Buren 18. White had been nominated by the Legislatures of Tennessee, Illinois and Alabama, but the only States that he carried were Tennessee and Georgia. Van Buren was elected, and Jackson would have been satisfied but for the hateful returns from Tennessee and from the Hermitage district.

The new Legislature of Tennessee re-elected Judge White to the Senate by a large majority, but if his enemies were for the time defeated, they were strong, aggressive, and vindictive. In the next Legislature the majority was reversed, and a vigorous and system-

atic effort to instruct White and his colleague, Foster, out of the Senate instantly began. It was known that the senior Senator believed in the doctrine of instruction, that he was unalterably opposed to the sub-treasury scheme, and therefore, that to instruct him to vote for that measure would be to drive him from the Senate. After a hard fight the instructions were given, and his avowed opinions left him no option but to resign whenever the sub-treasury came before the Senate. In due time the politicians at Washington furnished the complement to the action of their fellow-schemers at Nashville, and he promptly presented his resignation. One who has had even a slight experience in politics must have learned that politicians are not to be judged by exacting standards of right. It is very certain also that if Legislatures could now instruct Senators out of office, the proceeding would be of frequent occurrence, but Senators do not now recognize the right. And this modern view of the subject, while it certainly is not founded solely in superior patriotism, is clearly right in principle. Senators are elected to serve for a term of six years as the intelligent representatives of the people of the State. It is the spirit of the Constitution that if their services be unacceptable, or if they be for any reason unsatisfactory, they shall be retired at the end of the term. In the case now under consideration, Judge White must have known that the people of Tennessee who had recently voted for him for the highest of offices, with full knowledge of his opinions on the question of the sub-treasury, did not desire his retirement from the Senate, and did not expect nor wish him to support the administration. He could not have failed to know

that the instructions were devised solely for the partisan purpose of driving him out of the Senate. In no act of his public life was he so much in error as in this. But he believed it to be his duty to resign, and he was true to his convictions now as always. He was not the only Senator who suffered this fate. For instance, Mangum, of North Carolina, and John Tyler, of Virginia, had resigned because they could not obey legislative instructions.

The fatal question was presented to the Senate on January 13, 1840. Judge White being as usual in his place, arose and read from manuscript his reply to the instructions. The document was at once dignified and spirited. He was not a great master of words like Webster, Clay, and Choate. His language was plain, direct, forcible. His grasp of his subject was always firm, and as a rule he spoke without notes, but on this occasion he read in order that he might not be misrepresented.

It is plain that while he was sacrificing office and whatever of ambition remained to him, to a sense of duty, he was not tamely submissive to wrong. More than once he indulged in the severest irony. He complimented his instructors upon their intellectual attainments, and their profound researches into constitutional law, and upon the fact that they were not men of ordinary capacity or of equivocal moral character. In conclusion he said, "I was called to the service of my State fifteen years ago without any solicitation on my part. With reluctance I accepted the high station which I now occupy. I have been continued in it perhaps too long for the interests of the country. I have been thrice elected by the unanimous vote of your

predecessors. My services have been rendered in times of high party excitement, sometimes threatening to burst asunder the bonds of this Union, and your resolutions contain the high compliment that bitter political opponents can find only a solitary vote worthy in their judgment of 'unqualified commendation.' I hope it will be in your power to select a successor who can bring into the service of the State more talents. I feel a proud consciousness that more purity of intention, or more unremitting industry he can never have. For the sake of place I will never cringe to power. You have instructed me to do those things which, entertaining the opinion that I do, I fear I would not be forgiven for, either in this world or in the next; and practicing upon the creed I have long professed, I hereby tender to you my resignation."

His friends lamented his retirement and endeavored in every way possible to manifest their disapproval of the conduct of the Legislature. But while we may be convinced that he was the worthiest and most capable man in Tennessee for the office of Senator, it is probable that nothing could more effectually have confirmed his reputation for patriotism and devotion to duty than his resignation and the circumstances attending it. His exit from a place in which he had served with distinction for fifteen years was dignified and impressive. He had not outlived his usefulness nor the respect or confidence of the public. The circumstances gave to his retirement somewhat of the quality of martyrdom. A public dinner at Washington, at which Henry Clay was the foremost figure, attested the esteem and respect of his associates, and from Washington to Knoxville continuous demon-

strations evinced a general and sincere sympathy and approval. The resignation was a noble ending of a political career which for patriotism, uprightness, courage, and fidelity, has never been surpassed in the history of this country.

He came home an invalid. He was now sixty-seven years of age, and a frame which never had been robust, was enfeebled by years of hard work and by the ravages of disease. He died April 10, 1840.

To form an estimate of the character and conduct of Judge White which will satisfy the impartial and critical student of history, is not easy, because most of those who knew him are dead, and the history of his life and times has never been adequately written. His only biographer is his granddaughter. She was a most estimable lady, not without literary accomplishments, but her book is a eulogy. The faults of her subject, and being a man he must have had faults, are not shown nor even hinted at. The controversial papers of his time are not to be trusted. Jackson had much to say of him, but up to a certain point his words are those of an ardent friend, and beyond that point they are the words of the most thorough and unrelenting of haters. Sumner (as already quoted) says that White was piqued because Jackson did not give him a place in his first Cabinet. Parton says he was jealous of Van Buren. There is no doubt that White was for years the most trusted of Jackson's friends. The degree of this intimacy has already been shown. It cannot be proved, but is probably true, that Jackson's course towards the Bank of the United States was inspired and sustained by White. In 1817 White had opposed the establishment of a branch of that

institution in Tennessee, while Jackson had in effect favored it by suggesting certain persons to be its officers. In Indian affairs, White was the best versed and the most competent of Jackson's advisers.

He was an ambitious man. Conscious of large abilities, he desired public recognition not less earnestly, perhaps, than Jackson and Clay, who are accounted among the most ambitious of men. Being thus ambitious, and holding Van Buren in the slightest esteem, he was offended and embittered by the obvious and systematic efforts of his old friend to secure the presidential succession for the New York politician. If there was weakness in this it was of the most natural and excusable kind.

Judge White had the firmness of his race somewhat excessively developed, or in plain words, he was obstinate. Opinions once formed were to be changed only by the most cogent reasons; it was fortunate, therefore, that as a rule his mental processes were deliberate. His granddaughter to whom, as to all womankind, the gentler sides only of his character were presented, has portrayed him as a mild-mannered, amiable, immaculate gentleman, better than any man ever was, possibly better than any man ought to be. It is not necessary to deny that he possessed the good qualities which she assigns him, but certainly he had other qualities. He was a stern, though just judge and man of affairs; he was strenuously ambitious, though incapable of chicane or of corruption; he was so confident of himself that he sometimes fell into serious error from disregard of the just opinions of sincere friends. As a Judge, his self-reliance may have rendered him too intolerant of precedent when it con-

flicted with his convictions of justice; as an advocate, he was a hard fighter and a vigorous declaimer. He was a man of strong passions, but as a rule he controlled his passions instead of surrendering to them like his illustrious friend and enemy.

Finally, and above all, he was absolutely honest. His history appears to justify the strong statement that he was so essentially honest that he was incapable of falsehood in act or word. His honesty was a mental as well as a moral quality. If he was firm, he was also just, and if he was ambitious, he never failed to prefer his country to himself, so that in all the years of his public life no blot fell upon his name. There were many men of his time of more brilliant intellect, but none of a finer or firmer moral quality, and if we venture to except Calhoun, none in whom such high moral attributes were combined with such exceptional gifts of mind. Except his granddaughter, no writer has given Judge White so much attention as Henry A. Wise. He is hardly less eulogistic than Miss Scott, as the following will show: "The name highest on the list of Jackson's friends, which vouched for his ability and fidelity and for his wisdom and virtue, was that of Hugh Lawson White, the Nestor of his day in the Senate, and the Cato of his country. * * * Hugh L. White, the Senator from Tennessee, was, in fact, more than any other man, responsible for Jackson's 'good behavior' in the presidency. * * * He was one of the best judges of men and things we have ever known, and one of the purest and most exalted patriots who ever served his country, always unselfishly, with a stern virtue and the strongest sense of duty, unflinched by fear or favor, but ever touched by the ten-

derest devotion and affection. He was grave, taciturn, and laborious, always conscientiously exact, strict, and precise, and abhorred every form of deceit, injustice or want of ingenuousness. He committed himself rarely and slowly, but once committed he was as immovable as a rock, unless convinced of a wrong, and was wholly unapproachable by any indirection or circumvention. His knowledge of the intrigues going on around him was inexplicable, and the thoughtfulness by which he discerned and resolved them, almost awed one as by the presence of a seer whose prophecies were certain to be realized. He was very thin, tall, and ghostly in appearance, but was physically very sinewy and strong, and had immense capacity for labor. His eyes were a clear blue, but small, and so deep set that, when he drew his brows over them in thought or conversation, they looked like black diamonds, scintillating various sparkling lights; and his lips were so compressed that he wore an appearance not only of firmness but also of constant restraint and self-command. He was always terribly in earnest, yet at times enjoyed humor, such as that of the inimitable Balie Peyton, and when he did smile, which was seldom, it was the sweetest smile we ever caught from lip or cheek of man. He was a great and good man, without fear and without reproach." Again referring to the resignation, Wise says: "Thus the nation lost its highest exemplar of wisdom, honesty, and purity in public service." Foote says of him: "As a constitutional lawyer it is doubtful whether the Republic has ever produced Judge White's superior."

From all that has been shown it must appear that he was a man of extraordinary merit and ability. In

an age less prolific of great men his place in history might have been more conspicuous. He was the contemporary of Jackson, Webster, Clay, Calhoun, and Benton. He had not the self-assertiveness, the prompt initiative, the irrepressible and headlong energy, the imperativeness, which made Jackson a leader wherever he went; he had not the glorious gift of eloquence, nor the winning personality of Clay; not the massiveness of intellect which placed Webster above all his countrymen; not the deep learning, the fearless logic, the overpowering mental force of Calhoun, nor the tremendous egotism and momentum of Benton, but at a time when all these were playing their great parts upon the stage, he was called by one of the most eminent of his contemporaries, "The highest exemplar of wisdom, honesty, and purity in public service."

CHAPTER V.

The Court of 1834—Nathan Green—Robert L. Caruthers—Abraham Caruthers—Wm. B. Turley—Wm. B. Reese—A. W. O. Totten—R. J. McKinney—Wm. R. Harris—Archibald Wright—The Chancery Court System—Bromfield L. Ridley—A. J. Marchbanks—Elijah Walker—Robert H. Hynds.

The Constitution of 1834, the one people's Constitution of Tennessee, marks an era in the history of the State. The new Constitution was an expression of the new life of the State. It was in a sense the declaration of the fact that Tennessee had ceased to be a frontier community, and had become a great State, not even yet highly developed, but conscious of great achievements and assured of a prosperous future. The history of Tennessee somewhat fancifully, but not unhappily, has been divided into three periods. The period before the Constitution of 1834 has been called the Ancient; that between 1834 and 1865, the Mediaeval; and the succeeding one the Modern.

It is in the events of the Mediaeval period that our people have most pride. In that time population increased with extraordinary rapidity, material development was satisfactory, the political leadership secured to us by the superiority of our public men gratified our State pride, and in every way Tennessee had reason to be satisfied with herself. In keeping with other

things, this was the golden age of the bench and bar. Judge Ingersoll, of the Knoxville bar, has written with classic eloquence: "In the decisions of the old Supreme Court, composed of three Judges, extending from 1834 to 1861, and embraced in the Reports from 9th Humphreys to 1st Coldwell, inclusive, is to be found a body of jurisprudence as fair to look upon as Apollo Belvidere, a structure of judicial decisions as strong as a pyramid, as symmetrical as a Campanile, as faultless as the Parthenon."

But while we allot to the Court of the Constitution of 1834 a full measure of praise, we must not forget the services of the judges who had gone before.

The times that tried Judges' souls most were not those after 1834, when Tennessee was becoming a commercial and manufacturing State, and when Green and Reese, and Turley and McKinney and others were wisely and skillfully rounding out and finishing the fabric of our jurisprudence, but when mighty John Haywood, and Overton and White were clearing the ground and laying the foundations. The one great source of litigation in the ancient period was land titles. In that time the soil of Tennessee was as prolific of land claims almost, as of its natural products.

English precedents could not in many cases furnish a guide. Conditions were new, and the Court was compelled to make the law. It did make the land law.

The Court of 1834 came into existence just when the State had entered upon a period of commercial expansion, and when the multiplication of corporations was giving rise to many new questions. But commercial and corporation cases had not been un-

known before 1834, although it is true that they had been less frequent than they were subsequently.

It was in the departments of commercial and corporation law, and generally in cases of the kinds that are produced by density of population and diversification of pursuits, that the great work of the new Court was done. But the Court was not without precedents. It had the rich stores of English decision, and an abundance of important and helpful adjudications of American courts. The courts of the United States, of Massachusetts, New York, and of other older States, had traversed the ground upon which our Court was entering in 1834.

This is not said in derogation of the Court whose extraordinary ability and invaluable public service the writer cheerfully concedes and cordially praises. Building mainly upon the broad and firm foundations laid by its predecessors, this Court did raise and finish as sound and imposing a structure of jurisprudence as can be found anywhere. Not only did it pronounce upon important questions of commercial and corporation law, which were new in Tennessee, but among other great things, it gave form and just proportion to our equity system. It was in these things, commercial law, corporation law, and equity jurisprudence in all its phases, that the great work of the Court was done. In no respect was it deficient, but in these it conspicuously excelled, because by them its attention was oftenest required.

This Court was uniformly and continuously excellent. All its members were exceptionally competent, and this was a natural result of the general conditions in Tennessee. It was a time of healthy and genuine

growth in the State; activity, prosperity, success, were on every hand; every interest prospered. Materially, morally, mentally, our people were advancing rapidly. It was indeed a golden age in the State's history, to which we may look with just pride and for inspiration to earnest effort to restore the prosperity and greatness that have been impaired, but not lost.

In the first or ancient period, the great Judge, by common consent, was John Haywood. The Judges under the Constitution of 1834 were all strong men, and it would be difficult, as well as invidious, to say which is entitled to the first place. Probably in a given number of lawyers, however, a majority would mention Nathan Green first among the Judges of that period. It is not asserted that he was an abler man or a better Judge than Turley, Reese, McKinney or Wright, but he was the spokesman of the Court in more cases of importance than any of his associates, and especially in cases affecting the equity jurisprudence of the State. It is probable that cases of this class were assigned to him in the Supreme Court in preference to other Judges, because of his experience and his excellent record as Chancellor.

Nathan Green was born in Amelia County, Virginia, May 16, 1792, and died at his home in Lebanon, Tennessee, March 30, 1866. He studied law and began the practice in Virginia, but soon afterwards came to Tennessee and settled at Winchester, where he seems to have secured, in a short time, a satisfactory practice.

It is said that at that time the lawyers of the State were, like many of their fellow citizens, somewhat addicted to gaming, and it is a fact not to be

disputed that this seductive pursuit has at times furnished a vent for the active intellect of the profession. It is related in all accounts of Judge Green that he yielded at one time to the allurements of the gaming table, and thereby lost everything that he had acquired. His reformation was due to his own good sense and strength of character, and to the influence of his admirable wife, who seems to have been a woman of the noblest character, of exemplary loyalty, patience and affection. It is said that she never complained, and never reproached her husband, but upon the contrary, was sympathetic and affectionate, while she deplored his fault, and sought by gentle and loving persuasions to cure it.

Such conduct is worthy of all praise, and did not fail of its proper reward. Judge Green was at all times a man of strong character and high purposes, and it is not difficult to understand how his own convictions, re-enforced by an unavoidable sense of gratitude and affection for his wife, worked a complete change of conduct. He overcame his passion for cards, united himself with the Cumberland Presbyterian Church, and became in time one of its most prominent and influential supporters.

It is not at all strange that at a time when gaming was a more venial offense than now, a young man of active mind should have sought in its excitements, relief from the monotony of life in a country town, but it would have been as strange as unfortunate if a man of Green's force of mind and character, and innate integrity, had not speedily overcome the habit. The reformation was complete and permanent, and from

that time the better elements of his character were always ascendant, and his influence at the bar and on the bench was always on the right side.

His public life began with an election to the State Senate in 1826. Without effort he was a leader in the Legislature, impressing himself favorably and strongly upon his associates. In 1827 he was chosen Chancellor for East Tennessee, when the State had just created the Chancery Court and there were only two Divisions. In 1831 he was elected to the supreme bench, and was elected again after the adoption of the Constitution of 1834. For more than twenty years he remained in this high Court, exerting an unsurpassed and most salutary influence upon its decisions and its policy. He has been called the "Hardwicke of Tennessee," and the "father of our equity jurisprudence." No other Tennessee Judge, with the single exception of Haywood, has so powerfully or permanently impressed himself upon the jurisprudence of Tennessee, and none has left a more admirable record.

In 1852 Green retired from the bench, and thenceforth, until the civil war interrupted his work, gave his time to the Lebanon, or Cumberland University Law School. His great reputation, extending through the State, and widely beyond its borders, attracted young men from all the Southern States. He was ably supported by Judge Abraham Caruthers and Chancellor Ridley, and the popularity won for the School by these distinguished names was soon re-enforced by the quality of their work. No similar institution in the South has been so well attended, or has trained so many lawyers who have risen in the profession. It has continued to be to the present time, the best known

law school in the South. In almost every Southern State its graduates are among the leading lawyers, and in several, they are now to be found on the supreme bench. At the meetings of the Tennessee Bar Association it is common to have the graduates of the Lebanon Law School photographed in a group, and this group invariably contains much of the best talent of the State.

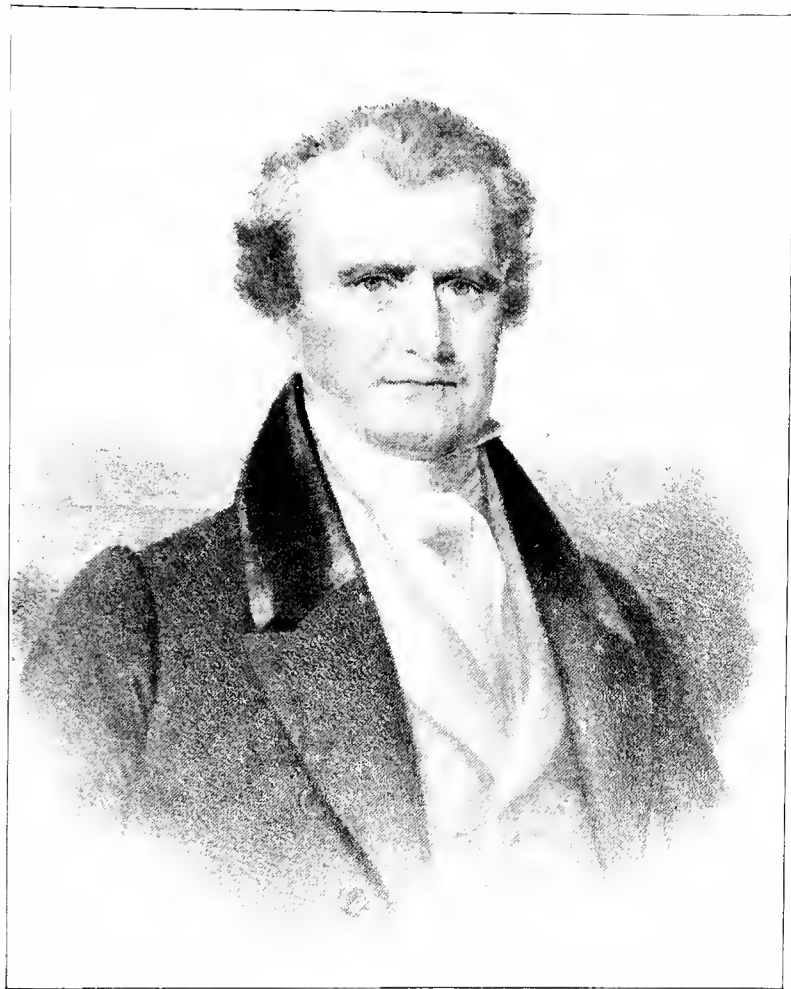
In the controversies leading up to the war, Judge Green consistently declared himself opposed to secession, and advocated the maintenance of the Union. It is said that, with characteristic frankness, he freely expressed these sentiments in his lecture-room. Moreover, he seems not to have believed that there was occasion for seceding, even if the right existed. He did not believe, however, that it was permissible, or justifiable, under the Constitution, for the North to interfere in the domestic affairs of the South, or for the Federal government to resort to coercive measures. Therefore, when the issue was made and hostilities began, he arrayed himself on the side of the South. He was not connected with the army, as he had long passed the age of service, but remained quietly at home throughout the war, and without molestation of person or property. In the Spring of 1866 he began active work to resuscitate the Law School. He entered upon the undertaking with his old time zeal and energy, forgetting his age and consequent infirmity, and was in a little while compelled to give up. After a short illness he died. He had frequently said, in reply to the remonstrances of his friends, that he wished to wear out and not to rust out. And he was right. He died in the effort to

do good, and in the possession of his faculties. To the very last he was a useful man. The character of Judge Green will repay study. His dominant quality was force. Physically, mentally and morally he was strong. Such men are not always superior to temptation. Sometimes they yield and become confirmed in evil doing, and are the worst enemies of society. But all Judge Green's impulses and purposes were right, and in the end he was victorious over temptation and evil habit, and came out of the strife purified and strengthened. He was for many years the leader among the laymen of the Cumberland Presbyterian Church. He was a diligent student of the Bible, and was led by his tastes into a careful study of theology, in which he became profoundly learned.

In everything that he did, earnestness, sincerity and power were manifest. As an advocate he possessed almost none of the graces, but was rich in substantial qualities. Physically he lacked symmetry, but he spoke with vehemence, and it need not be said that he reasoned with power. His methods were straightforward and direct. He was wanting in wit, humor and fancy, but never in logic.

As a Judge he displayed great learning, and also a thorough mastery of his learning. These two things are not often united. The very learned lawyer is apt to be dependent on his learning. We have had Judges who were possessed by learning rather than possessing it. Judge Green's mind was large enough and strong enough to digest what he read, so that he was not only a learned Judge, but truly a great Judge. He is one of the finest figures in our history, and few men have rendered more substantial service to the State.

Robert Looney Caruthers was born in Smith County, Tennessee, July 31, 1800. His education began in the country schools of the neighborhood, was continued for awhile at Columbia, and completed at Washington College, East Tennessee. He read law with Judge Samuel Powell, at Greeneville, and began the practice at Carthage, but soon afterwards moved to Lebanon, in Wilson County. For a great part of his long and useful life he held positions of honor and of trust. In 1823 he was elected Clerk of the lower house of the Legislature, which then met at Murfreesboro. In 1827 he was made State's Attorney for the Lebanon Circuit, receiving his commission from Sam Houston, and held the position for almost five years, when he resigned and was elected to the Legislature to represent Wilson County. In this Legislature, the first under the new Constitution, he was a member of the Judiciary Committee of the House of Representatives. In 1841 he succeeded John Bell in Congress, but declined a re-election. In 1844 he was an Elector for the State at large on the Whig ticket. In 1852 Governor William B. Campbell appointed him to the supreme bench to fill the vacancy created by the resignation of Nathan Green. The Legislature elected him to the same office in 1853, and the people elected him in 1854, after the amendment of the Constitution depriving the Legislature of the power to elect Judges. He remained on the supreme bench until the Court was suspended as a result of the war. He was a delegate to the Peace Congress of 1861, and a member of the Provisional Congress of the Confederate States. When the third term of Isham G. Harris, as Governor, expired in 1863, Judge Caruthers was elected to suc-



Felix Grundy

ceed him, but was never inaugurated. In addition to all these civil positions, he held, in 1834, the office of Brigadier-General of Militia.

After the war his time was devoted to the Cumberland University Law School, an institution with which his name, like that of Judge Green, is inseparably connected. He died in October, 1882, at the ripe age of eighty-two years.

Judge Caruthers was the first President of the Board of Trustees of Cumberland University, and was a shining light in the Cumberland Presbyterian Church.

His character was marked by an extraordinary purity. The moral faculties were always dominant. He was sincerely pious, genuinely benevolent without ostentation, and the sure supporter of every well-considered work of temperance, morality or religion. He was a man of firmness and decision, and therefore not only well-inclined, but also efficient in well doing. His mental gifts were large and various. As a lawyer he was thoroughly trained, after the fashion of his time, before entering upon the practice, and continued thereafter to be a diligent student.

It is a little surprising to find him ranked so high as an advocate, by Albert D. Marks and Andrew B. Martin, both of whom have written accounts of his life. The correctness of their statements is not disputed, but in that remote part of the State in which these Sketches are written, he has not been thought of as a great advocate, but only as a great jurist. Mr. Marks declares that he was without doubt the greatest advocate Tennessee has ever had, and some one is quoted as having said that, when on the wrong side of a jury case, he was an obstruction to justice. If

these estimates of his ability as an advocate be correct, he has not been dealt with justly, because it is within the writer's knowledge that the lawyers of the present generation do not know him as a great advocate.

He is not said to have been an orator or a declaimer, but an irresistible reasoner, controlling courts and juries by the force of logic, and of a strong, commanding personality.

Everything that has been written of him is commendatory. Such faults as he may have had, have been entirely obscured from public view by his many excellent qualities.

He was one of the coterie of good and able men who, toward the end of the first half of this century, gave to the little town of Lebanon, and to its schools, the unique and enviable reputation which they still retain.

The names of Green, Caruthers, Stokes, Martin and others, remind us invariably of Lebanon and Cumberland University, and the Law School. To these men, largely, Lebanon is indebted for the fact that for fifty years it has been one of the chief centers of the educational and religious life of the South. Its influence, always good, has extended into all the States of the South and Southwest. It has been a conservative, sound, orthodox and beneficent influence. All honor to the little town and its admirable University for the good they have done and the good they are doing. May they continue to prosper and remain steadfast in upholding the old standards of culture and of faith.

Abraham Caruthers was the first law professor of Cumberland University. Judge Nathan Green, of the Supreme Court, was elected professor of interna-

tional law and political economy in the University in 1845, but declined the position. Judge Caruthers, who was subsequently requested to establish a law school, entered upon the work in the month of October, 1847, thereby becoming the founder of the most successful and the most useful law school that has existed, up to this time, in the Southern States. For this reason, and on account of his abilities and his personal worth, he is entitled to a high place among the lawyers of Tennessee.

He was born in Smith County, Tennessee, January 14, 1803. While he was a child his father died. By means of his own strong will, and by the help of friends, he acquired a fair education, studied law and began the practice in 1824 at Columbia, Tennessee. Soon afterwards he removed to Carthage, in his native county, and in 1833 was appointed by Governor Carroll, Judge of the Circuit Court for the Third Circuit. He was elected in 1836, Judge of the Fourth Circuit, without opposition, and at the expiration of his term was again elected without opposition, and served until 1847, when he retired to take charge of the Law School.

In the records of the lives of our Circuit Judges and Chancellors, prepared mainly by friends and kinspeople, it is almost invariably stated that few of their decisions were reversed by the Supreme Court. This statement may be made safely in regard to Judge Caruthers, whose ability as a *nisi prius* Judge is universally recognized. It is said that it was not uncommon for the Supreme Court to incorporate his decisions literally, in its opinions. In the administration of the criminal law he was exact and rigid, and his

influence upon morals in his circuit, was strong and salutary.

In resigning in 1847 and entering upon his new work, he was undertaking an experiment of doubtful result. The modern method of advertising was at that time unknown in Tennessee. The Law School began when Judge Caruthers met seven students in the office of his brother, Robert L. Caruthers, in Lebanon. During the first term the number increased to thirteen. The first lesson recited was in the "History of a Lawsuit," which was then a little book of forty pages which Judge Caruthers had recently published, and which he called the "Primer." He did not adopt the lecture system, but assigned lessons in text-books, and upon each of these rigidly examined the students, holding that this was the only proper way to teach the law. He adopted also a system of moot courts, thereby making his students practicing lawyers from the first. His plan was popular, and was satisfactory to the management.

In the second year of the Law School, Judge Nathan Green, of the Supreme Court, and Bromfield L. Ridley, Chancellor of the Lebanon Division, were associated with Judge Caruthers, but Judge Ridley was able to give but little time to the work. In 1852 Judge Green resigned from the bench, and from that time gave his attention exclusively to the Law School. In 1856 his son, Nathan Green, Jr., became an active member of the law faculty, and is now at the head of the School. In 1861 there were one hundred and eighty students in the Law School.

The issuance of President Lincoln's proclamation in April, 1861, making a call for volunteers to suppress

insurrection in the Southern States, caused the immediate suspension of the Law School and the dispersion of the students to their homes. Judge Caruthers had been a strong Union man, and on many occasions had declared his opposition to secession and to every movement that tended to disturb the harmony, or to threaten the integrity, of the United States; but like the great majority of the Unionists of Middle and West Tennessee, he felt, when the issue had been made, and a choice of position was unavoidable, that his duty lay with the South and with the State. He, therefore, declared his adherence to the Confederacy, and earnestly devoted himself to its interests.

He was a member of the Legislature from Wilson County in 1861, the first Legislature elected under the Confederate regime.

Upon the occupation of Middle Tennessee by the Federal army in the Spring of 1862, fearing arrest, he left his home and went to Marietta, Georgia, where, away from family and friends, he died May 5, 1862.

An earnest effort has been made to secure a full history of the Supreme Court Judges under the Constitution of 1834 from original sources, but without success, except as to Judges Green and Caruthers. It must, therefore, be admitted frankly that what is said here of Judges Turley, Reese, Totten and Harris, is largely taken from the History of the Supreme Court by Albert D. Marks, who is always trustworthy, but whose work should not be too freely appropriated. As to Judge McKinney, there is an excellent account, which was read by W. A. Henderson before the Bar Association, and probably is based on personal recollections of Judge McKinney's friend, Judge R. M.

Barton. The Court was first composed of Judges Green, Turley and Reese.

William Bruce Turley was born in Alexandria, Virginia, in the year 1800. The family was English, with intermixtures of Irish and Huguenot blood. In 1808 Judge Turley's father came to Tennessee and settled in Davidson County. The son was educated at the University of Nashville and studied law in the office of William L. Brown, in that city. He entered upon the practice at Clarksville, and in 1829 was elected Judge of the Eleventh Judicial Circuit. In 1835, at the age of thirty-five, he was elected to the supreme bench, and served for fifteen years. He was re-elected in 1847 for the ensuing term, but, as related by Mr. Marks, his relations with Judge Green were not satisfactory, and in 1850 he resigned and accepted the judgeship of the Common Law and Chancery Court of Memphis. He died May 27, 1851. The causes of disagreement between Judges Turley and Green are not known, and members of Judge Green's family know nothing of the occurrence.

It is probable that Judge Turley was more alert, intellectually, than any of his associates. Mr. Marks says that the work of a *nisi prius* Judge was better suited to his tastes than that of a Supreme Judge, and that he was somewhat intolerant of the labor of consultation. A very distinguished lawyer who knew and admired him, writes as follows: "Turley did not care much for precedents, but rather thought, in the language of the Code Napoleon, that no case should be regarded as a precedent. I once read a private letter written by Judge Kent, in which he said that he studied the facts patiently, attended to the argument of coun-

sel, determined on which side justice lay, and then spent much labor searching for authority to sustain his determination, and never failed to find it. Turley was just such a lawyer."

The writer of the letter says further: "He was well read in history, fond of poetry, and it was a treat to listen to his recitations from Shakespeare and Byron."

In this connection it may be said that many of the opinions of this Court have a high literary quality and value. It is well known in the profession that many of the great English judges were masters of style, and prided themselves greatly on that fact.

Some of our Judges, notably Reese and Turley, were imbued with the same spirit. They were fond of giving to their opinions a dignified and imposing form, and some of them are models of English of the good old-fashioned sonorous kind. Witness the following from Judge Turley's pen, in *Green vs. Allen*, 5 Humphreys, 179: "It is a cause of melancholy reflection to those who have looked into the history of the Church to find at how early a period its hierarchy, forgetting the great and vital principle which had been so impressively taught them, 'that the kingdom of Christ was not of this world,' entered into a struggle in the first place for the attainment of wealth, and in the second place for the acquirement of temporal power. The new but zealous converts, imperfectly acquainted with the mild and self-denying tenets of the religion they professed, having but a very imperfect conception of the principles of action upon which they hoped for the enjoyment of that immortality of happiness promised them—ignorant of the propriety and necessity of controlling and suppressing their evil

and wicked propensities, were early led into the belief that a composition for their indulgence was to be found in dedicating to the Church their worldly wealth, which from the high estimate placed upon it by themselves they judged must be highly prized as an atonement for their crimes."

These are not perfect sentences, but they suggest the old masters. It is submitted that a Judge is not less a Judge because he writes good English. *Green vs. Allen* being a case involving the general subject of charitable bequests, afforded a fine opportunity for the display of learning and of rhetoric, and Judge Turley was equal to the occasion. The case is the leading one on the subject in Tennessee.

It is remembered that Judge Turley was of a convivial turn, but it cannot be charged that he was on that account less faithful or efficient as a Judge. The manner of his death was very distressing. While walking on the street in Raleigh, Tennessee, he fell and caught on his cane, which broke under his weight and one of the sharp points ran him through.

It seems to be the opinion of his contemporaries that Judge Turley, while less studious perhaps than some of his associates, was not inferior as a lawyer, and probably was quicker of apprehension than any of them.

William B. Reese was born in Jefferson County, Tennessee, November 19, 1793, and died at Knoxville, July 7, 1859. His family was among the first settlers in East Tennessee, and his father, who was a lawyer, was a prominent supporter of the State of Franklin.

Judge Reese was educated at Blount College and at Greeneville College, and was admitted to the bar in

1817. Nothing is known of his record in detail until 1832, when he was elected Chancellor of the Eastern Division to succeed Nathan Green. It is said generally—and no doubt correctly—that he enjoyed a good practice. As Chancellor he displayed ability of the highest order, and it is asserted that of the cases appealed from his Court to the Supreme Court, only two were reversed.

In 1835, when the Legislature was called upon to choose Judges of the Supreme Court, under the new Constitution, Judge Reese was unanimously chosen as one of the three. He served the full term of twelve years, but was not a candidate for re-election in 1847. At that time he aspired to the United States Senate, but was defeated by John Bell. Soon afterwards he was made President of East Tennessee University, which position he held until the failure of his health compelled him to retire.

Judge Reese was easily the most scholarly of all our Supreme Judges, with the possible exception of Haywood. After leaving college he continued to be a student, and was to the end of his life a constant and careful reader. His opinions show the results of his broad and thorough scholarship. They display not only an accurate knowledge of the law as written and declared by the courts, but also a clear understanding and a firm grasp of principles. He was in no sense a case lawyer, but sought the sources and the reasons of the law. The native power and careful training of his mind were such that the great stores of his learning were always serviceable and never confusing. He had the gift of analysis as well as of acquisition.

For the office of college President he was excep-

tionally adapted. His reputation for learning was great and deserved, his character was clear and his name dignified by the eminent positions he had held. He was an acceptable and successful President, and was of great service to the institution. In him the moral qualities were not less developed than the intellectual, and his influence and active exertions were freely given for the public welfare.

He was interested in practical affairs, and gave intelligent and helpful attention to the material development of the State. He supported the movement to secure the two railroads that were built to Knoxville in the fifties, and was a director of one of the corporations.

It is not often that so many good qualities are combined, or that one man is able to serve efficiently so many important interests.

Mr. Marks refers in terms of deserved praise to the learning and ability shown in Judge Reese's opinion in the case of *Polk vs. Faris*, 9 Yerger, 159, in which the rule in Shelley's case was applied. It is said that the erudition of the opinion drew forth especial praise from Chancellor Kent.

Judge Reese was not only one of the most learned of our jurists, but in every respect one of the most competent and efficient.

A. W. O. Totten, who succeeded Judge Turley on the supreme bench, was born in Middle Tennessee, but reared in Gibson County, in West Tennessee, and admitted to practice at Trenton. He afterwards returned to Jackson, where he was eminently successful. In later times no lawyer who aspired to a judgeship would have removed from Trenton. No town in the

State contributes so continuously, or more acceptably, to the high judgeships. Totten, however, was elevated to the supreme bench despite the fact that he had left Trenton. He was first appointed and then elected, and served until 1855, when he resigned and was succeeded by William R. Harris. He died in 1867.

Judge Totten did not make a great name on the supreme bench, and is not so highly esteemed as a Judge, by the profession, as are Green, Reese, Turley, McKinney and Wright. He was a man of high character, not wanting in firmness, a well-read lawyer, diligent and cautious. He was not unacceptable as a Judge, but did not rise to the stature of the great men of the Court. From a memorial of Judge Totten, appended to 4th Coldwell, and presumably prepared by Judge West H. Humphreys, the following is extracted:

"His person was tall, manly and striking. His manners were bland and courteous in a high degree, and his general deportment dignified, without stiffness or reserve. In the most exciting debates at the bar, he never descended to wrangling or lost the serenity of his temper or the tranquility of his manner. His delivery was measured and deliberate, and his language accurate and correct, as it fell from his lips. * * * Without the possession of pre-eminent ability he never fell below the occasion which called forth his mental powers. He filled the measure of judicial duty."

Judge Totten was one of the Commissioners, appointed by Governor Harris in 1861, to form a military league with the Southern Confederacy.

One of the great Judges who served upon the supreme bench under the Constitution of 1834 was **Robert J. McKinney**, of East Tennessee. He was a

native of Ireland, born in County Coleraine, February 1, 1803. His father, Samuel McKinney, left Ireland in 1809 and came to the city of Philadelphia. From that favorite landing place of the Irish immigrant he followed the stream of population that was flowing westward to the Alleghanies, and then southwestward along the mountain slopes. Penetrating into the valley of East Tennessee, he settled not far from where Rogersville, in Hawkins County, now stands.

Robert J. McKinney grew to young manhood upon the farm, always industrious and frugal, and determined to rise in the world. According to the rule of that time his schooling was at first limited to the winter months when farm labor was impossible, but finally he was able to attend Greeneville College for a time.

W. A. Henderson, whose sketch of Judge McKinney was read before the State Bar Association in 1884, says that this college schooling was for only a few months. It is certain that he left college without graduating, and began the study of law in the office of his uncle, John A. McKinney, at Rogersville, and received his license in December, 1824. He then settled at Greeneville and began the practice, according to custom and necessity, by riding the circuit. Mr. Henderson states that for the first five years he did not earn a "competency," but that in 1829 the case of *Rhea vs. Rhea* was to be tried at Blountville, on an issue of *devisavit vel non*, McKinney being the junior counsel for the proponents. When the case was called the senior partner was ill, and the case was tried and won by McKinney. His management of this case is said to have established his reputation and to have brought him a lucrative practice. He was

in the Constitutional Convention of 1834, and while his part in it was not exceptionally prominent, and his position at the bar was not yet fixed, he was probably the most thorough lawyer in that body.

In the contest between Van Buren and Hugh L. White, he was a White Elector for the State at large. This was his only appearance in politics. He seems, however, to have accepted at one time the position of Major of Militia, for which he was ill-adapted. Mr. Henderson relates that he appeared at the first muster after his appointment, on the muster grounds seven miles from Greeneville, with a full and gorgeous equipment and mounted upon a fiery but untrained steed, and that at the first outburst of martial music his horse took flight and could not be stayed until he reached Greeneville, seven miles away. This incident is related by Mr. Henderson with his habitual felicity, and is probably authentic.

In 1847 William B. Reese resigned his place on the supreme bench, and largely through the instrumentality of Return J. Meigs, McKinney was elected to fill the vacancy, his principal competitor being his former law partner, William Henry Sneed. He served continuously from 1847 to 1861, having been re-elected after the amendment of the Constitution in 1853. In 1861 he was of the peace commissioners sent to Washington by Governor Isham G. Harris. When, after the war, the State brought suit to enforce its liens upon the railroads to which it had given aid, he served as one of its commissioners, with Archibald Wright and Francis B. Fogg. He died October 9, 1875, at his home in Knoxville.

His closing years were peaceful and contented. In

early life he had acquired habits of frugality and self-restraint, and having a sound judgment and a gift for affairs, he amassed by legitimate means a large fortune, for his time. His earnings were husbanded and his investments were judicious. He was highly respected and esteemed by his neighbors, and while he was always a strict man of business, he was kindly and just, and by his large means was able often to aid the unfortunate. He was a man of genuine piety, and was one of the staunchest and most liberal supporters of the venerable First Presbyterian Church of Knoxville.

He was in no respect a brilliant or showy man, but thorough, accurate, diligent and sound. He was trained in the school of old-time lawyers. All who have written of him lay stress upon his knowledge and admiration of the common law, and the impression has been created that he gave comparatively little attention to anything else. It is submitted that this is erroneous. He was better versed in the common law than most lawyers, but this was equally true of him in other branches. He excelled in knowledge of the common law, but he was not less thorough in equity and in statutory law. His opinions are appealed to in support of this assertion. It will be found that they touch upon every phase of the law, and are never inferior. He was not a specialist, but an accurately learned and well rounded lawyer. He was not a voluminous writer and apparently not a ready one, but always exact and clear. He is said to have been something of a precisian, and that fact, added to an exceptional dignity and propriety of deportment, caused the bar to stand somewhat in awe of him.

While his opinions lack the literary embellishments and the flavor of scholarship that characterize those of some of his associates, they are invariably clear and definite. The writer of this sketch is inclined to regard him as the best opinion writer among our Supreme Judges, so far as lawyers' needs are concerned. In his opinions there is no unnecessary verbiage. They are carefully written in plain strong English for the single purpose of expounding the law.

It is the observation of the writer, at the bar, that his opinions are at least equal in authority to those of any of our Supreme Judges.

William R. Harris, an elder brother of Isham G. Harris, was born in Montgomery County, North Carolina, September 26, 1803, and was killed by the explosion of the steamboat "Pennsylvania," on the Mississippi River, near Memphis, January 13, 1858. While he was a child his father moved first to Bedford County, and then to Franklin County, Tennessee. The circumstances of the family originally had been prosperous, but gradually had declined. At one time William R. Harris was Deputy Sheriff of Franklin County, and while he held that office, studied at night and kept up with a class in Carrick Academy.

He began to read law in 1825, and was admitted to the bar in 1827. Settling in Paris, Henry County, soon after the establishment of the county, he secured an excellent practice and rose rapidly in the profession.

In 1836 he was appointed by Governor Cannon to fill a vacancy created by the resignation of the Judge of the Ninth Circuit. This office he held until 1845, when he returned to the bar. In 1851 he removed to Memphis. He succeeded Judge Turley as Judge of

the Common Law and Chancery Court of Memphis, by appointment, and was afterwards elected. On the resignation of Judge Totten, in August, 1855, he was appointed by Governor Andrew Johnson to the supreme bench, and was elected by the people in December of that year. He was starting on a trip to New Orleans when the deplorable accident, which caused his death, occurred.

He is said to have excelled greatly in knowledge of the common law, and of the rules of practice.

One of his brothers was a Methodist minister, and he is said to have been himself a most devout man. A citizen of Knoxville has told the writer that Judge Harris, when in that city, was one of the most regular attendants at the Methodist Church. It is also related that he had a quick temper, and was very determined. It is a tradition that on one occasion he wished to fight a duel with one of his associates on account of something that had occurred in consultation. A duel between Judges of the Supreme Court would have been extraordinary, and hardly defensible. The tradition is not in keeping with the trustworthy accounts of Judge Harris' piety, but it is undeniable that even the best men have tempers and do not always control them. There is no doubt that Judge Harris possessed many excellent and admirable qualities, and that his life was really exemplary. He is remembered as a man of fine abilities and of great promise as a Judge.

Worthy to be ranked with Green, Reese, Turley and McKinney, as the great Judges of Tennessee, in the middle period of its history, is **Archibald Wright**.

He was born in Maury County, Tennessee, Novem-

ber 29, 1809, and died at Memphis, September 13, 1884. His father and mother were both of Scottish Highlander descent. The family moved from Maury to Giles County soon after his birth, and he was reared in the last named county. His education was at Mount Pleasant Academy and Giles College, and does not appear to have been extensive. It is said, however, that he was a diligent student and made the most of his opportunities. He studied law in the office of Chancellor Bramlett, and was licensed and began the practice at Pulaski, in 1832. When the Florida war began, he volunteered and served throughout the war. Returning to Pulaski, he continued to practice law there until 1851, when he removed to Memphis and entered into partnership with his brother-in-law, Mr. Eldridge, and the Hon. Thomas J. Turley. In 1857 Governor Harris appointed him to the supreme bench, and in 1858 the appointment was confirmed by a popular election. He served until the Court was suspended by the war. His name had been mentioned frequently for the Supreme Judgeship before his appointment, but he had declined to seek the place.

He was an early and zealous supporter of secession, but was too old for service in the army. His two sons, however, enlisted, and one fell at Murfreesboro, while the other survived to become one of the foremost lawyers of the State, and to form a long-continuing partnership with Thomas B. Turley, the son of his father's partner, and United States Senator from Tennessee.

The war left Judge Wright, like many other Southern men, bankrupt. His indebtedness seems to have been incurred largely in purchasing plantations and slaves in Louisiana before the war, and it is

stated that by the laws of Louisiana, debts made in buying slaves were not enforceable by law, after the war. But of neither this law nor the national bankrupt Act would Judge Wright avail himself. Like Sir Walter Scott, and with the same old-fashioned Scotch honesty, he set to work, in his old age, to pay his debts. To this honorable but unpleasant task, he seems to have given the remainder of his life. While this course was not exceptional in the South, it certainly was in the highest degree admirable and praiseworthy.

In all that has been written of Judge Wright, stress has been laid on the terseness and directness of his opinions. As they appear in the Reports, they are devoid of adornment and amplification, but are eminently clear and satisfactory. They are such opinions as the lawyer needs in the court-room—clear, precise, unmistakable. Mr. Marks quotes Judge Greer, of Memphis, as saying of him that as a Judge he used a rifle, but as an advocate, a shot-gun. Marks also relates the following: "In a very important case which had been on trial for several weeks before an able Federal Judge, he filed brief after brief on the questions arising in the progress of the cause, until the number reached nine. One morning the Judge, seeing a new brief prepared for filing, asked Judge Wright how it was that a Judge whose opinions were models of terseness, should as a practitioner use such voluminous and numerous briefs. 'Sir,' he replied, 'when I was a Judge I had the power to say what the law was, and I said it as succinctly as possible; but in the trial of my causes I find it essential to be prepared

on all points, because I don't know what some fool Judge may decide.' ”

Down almost to the day of his death, Judge Wright remained in active practice. In his determination to pay his debts he accepted every honorable employment that was tendered him.

With his large and deserved reputation, he might have been elected to the bench again, but it said that he repeatedly declined to allow the use of his name. He had never sought office, but held to the old-fashioned opinion at which the politician of the present time laughs, that the office should seek the man.

In rugged strength of character and of mind, Judge Wright much resembled Judge Green. Like Judge Green, he was not a brilliant man, but strong and sound. He is said to have been exceptionally familiar with the Tennessee Reports, but it will be seen from his opinions that he was not given to the display of learning. He sought and reached the justice of the case, putting his conclusions in the plainest possible form. As a practitioner he was not only careful and laborious, but while always fair and honorable, was prompt and shrewd, and made the most of his cases. Judge Wright exemplified in his life the highest qualities of good-citizenship and true manhood. He was among the most competent of our Supreme Judges, and leaves a name of which his children and all the people of Tennessee must be proud.

At this point special mention should be made of the Chancery Court.

The first Act of the Territorial Legislature, 1794, Chapter 1, Section 1, continued the Superior Court, as established by the State of North Carolina. In

1787 the Superior Court had been divided, and the Chancery branch created, and called the Court of Equity. The same Judges held both Courts, but there was a Clerk and Master for the Chancery branch. The first Act of the Territorial Legislature confirmed the division of the Territory into Washington, Hamilton and the Mero Districts, and conferred a Superior Court of Law and Equity jurisdiction on each of them. It has been stated that when, by the Act of November, 1809, Superior Courts were abolished, and a Supreme Court and five Circuit Courts established, the Circuit Courts were invested with all the original equity jurisdiction of the Superior Courts; that in 1811, this was taken from them and conferred on the Supreme Court, and that in 1813 the Circuit Judges were given concurrent jurisdiction in equity causes with the Supreme Court Judges. In 1822 an Act was passed "to amend the judiciary system of the State," by which it was provided that "there shall be held by one of the Judges of the Supreme Court of Errors and Appeals, a Court of Equity at the present places of holding said Supreme Court in each circuit; who shall possess original equity jurisdiction and no other." Under this Act the Chancery Court was held once in each year at Rogersville, Knoxville, Charlotte, Sparta, Nashville and Columbia, sitting for two weeks at each place except Nashville, where the term was six weeks. In 1824 it was enacted that the Chancery Court should sit twice a year in each Circuit. In 1827 an Act was passed for the election of two Chancellors, and the State was divided into two chancery divisions, the Chancellors having jurisdiction over the entire State, and the right to interchange.

The first Legislature under the Constitution of 1834 increased the number of Chancellors to three, and since that time the number has been increased at the will of the Legislature.

The Chancellors down to 1840 were Nathan Green, Eastern Division from 1827 to 1831; William E. Anderson, Western Division from 1827 to 1830; William B. Reese, Eastern Division from 1831 to 1836; William A. Cork, Western Division from 1830 to 1836; Thomas L. Williams, East Tennessee from 1836 to 1843; Pleasant M. Miller, West Tennessee from 1836 to 1837; Milton Brown, West Tennessee from 1837 to 1839; George W. Gibbs, West Tennessee to October, 1839; Andrew McCampbell, West Tennessee, 1839 to 1847. Bromfield L. Ridley became Chancellor of the Fourth Division in 1840, the Act creating that Division having been passed in 1839. The increase in the number of divisions of course reduced the importance of the office, or at least made the incumbents less conspicuous. According to the terminology of the early Acts, the three divisions were divided into districts. There were originally fifteen districts in the Middle Division, and nine in each of the others.*

Some of the Chancellors have already been noticed in these Sketches. Of many of the others no authentic records can be found.

In the article on Chancellor Williams, reference is made to the opposition to the Chancery Court as a separate judicatory, which continued for some years after its establishment.

Among the more distinguished Chancellors of the State was **Bromfield L. Ridley**, who is remembered

* Acts 1835, Chap. 4.

as one of the purest and best men in the State's history. For him, as for many other excellent men, we are indebted to our mother State, North Carolina. He was born in that State, in Granville County, August 1, 1804, and was educated at Chapel Hill, where he graduated in 1824. At that time Dr. Joseph Caldwell was President of the University, and James H. Otey, afterwards Bishop of Tennessee, was one of the tutors. Many members of the class of 1824 became distinguished. Among them were Wm. A. Graham, Governor of North Carolina and Secretary of the Navy, M. E. Manly and Augustus Moore, Judges of the Supreme Court of North Carolina, David L. Swain and David Outlaw. Ridley came to Tennessee in 1826, having been licensed to practice in North Carolina in that year. He located first at McMinnville. In 1832 he was appointed District Attorney by Governor Carroll, and in 1835 represented Warren County in the Legislature. He was a Democrat in politics, but not a strong partisan. At the time of his death, memorial meetings of the bar were held in several counties, and printed copies of the proceedings have been examined. They are devoted almost exclusively, however, to deserved eulogy. The statement of facts is very meagre. That he was an ambitious man, and of excellent standing at the bar, we know generally. It is certain that he was made Chancellor of the Fourth Division in 1840, and that with Judge Abraham Caruthers, he was afterwards one of the professors in the Lebanon Law School. He continued to be Chancellor until 1861, and died in August, 1869.

He is distinctively known in history as "Chancellor Ridley," and his reputation as a Judge and as a man

is an enviable one. His long term of service testifies forcibly to his ability as a Judge, and this testimony is cordially confirmed by the opinions of those who knew him.

He is described as a man of genial and kindly temper, pure in his personal life, and above suspicion as a Judge. He was a sincere Christian, and his life was controlled by his religion. It is much to be regretted that so few facts of his history have been preserved, because unquestionably he was one of the most excellent and useful of our lawyers, and deserves to be honorably remembered by the bar and by the people.

An interesting sketch of Judge **Andrew J. Marchbanks** was read before the Tennessee Bar Association in 1890, by A. S. Colyar, and is the principal source of information to which the writer has had access. Mr. Colyar does not give the date of the birth of Judge Marchbanks, but says:

“His early life has nothing peculiar in it, except that not being fond of work, his mind at an early age fell on the law. He was the son of a Scotchman who settled in Overton County at an early day. The Scotch name was Majoribanks.”

It is found elsewhere that the future Judge was born in Jackson County, Tennessee, November 21, 1804, and that the family moved to Overton County during his infancy.

It appears that in early life he was of an idle, obstinate and combative disposition, and that at one time he was nearly involved in a duel with Bromfield L. Ridley. Mr. Colyar says that he was large, angular, raw-boned and awkward; that his clothes did not fit him, and that he was socially very unattractive

and not gifted in conversation. At the bar he is said to have been at first uncouth, and sometimes uncivil to his brother lawyers; but his arguments, while lacking polish, were always strong and effective, and in a few years he attained such reputation that the lawyers regarded him as a fit man for the bench.

In 1828 he was Elector for his district, and cast his vote for Jackson and Calhoun.

He was elected Judge of the Thirteenth Circuit by the Legislature, in 1837, and was retained, by successive re-elections, until the Court was suspended by the war. He was one of the best Circuit Judges we have had in the State, and probably has never been surpassed in knowledge of the land law by any Judge or by any lawyer in Tennessee. Mr. Colyar confidently declares that he was the equal of Whiteside, Overton or Whyte, and says that the Supreme Court considered him an authority on the land law, and never reversed him in but one of his ejectment suits. The last statement, while not important, is probably erroneous, as will be seen by examining the cases of *Waite vs. Dolby*, 8 Humphreys, 406, and *Miller vs. Miller*, Meigs, 484.

It is evident that Judge Marchbanks had a high conception of the judicial office. He maintained order and dispatched business, and while awkward and ungrammatical in speech, seems to have had a remarkable aptitude for charging a jury. His fund of common sense was large; in every way his intellect was vigorous, and while he was not a scholarly man, he had sufficient command of language to make himself clearly understood. Greatly to his credit is the fact that he would not permit litigants to converse with

him, but scrupulously avoided them. He was a grave man, apparently without humor, and when occasion demanded it, very severe.

The estimate to be derived from what is known of Judge Marchbanks, is that he was a man of strength, without any of the graces, or many of the refinements; that he was not to be loved, but to be respected; that as a young man he was harsh, intolerant and disagreeable; that contact with the world smoothed many of the rough places in his character, but not all of them; that he was a good lawyer; that as a Judge he was in all respects above the average, and that for learning in the land law and ability to administer it as a Judge, he has not been surpassed in the history of our judiciary. He was a man of the strictest integrity and of fearless and unflinching devotion to duty.

Elijah Walker and A. J. Marchbanks are generally regarded as the best land lawyers among our Circuit Judges. Marchbanks was a native of Tennessee, but Walker was born in Rockingham County, North Carolina, March 8, 1809. When he was three years of age his parents moved to Tennessee and settled in Hickman County. He was educated in the common schools of the County, and entered active life as a school teacher. Subsequently he adopted, for brief periods, various other active pursuits, including merchandising, stock trading and medicine. Finally he settled upon the law, and in 1831 or 1832 was licensed to practice. He was a man of ability and of energy, and rose rapidly in the profession, proving himself a worthy competitor of the many strong lawyers that were then to be found in his part of the State.

In 1849 he was made Judge of the Fourteenth Cir-

cuit, by appointment, and served until 1861. From 1870 to 1873 he was Judge of the Eleventh Circuit. It will thus be seen that he did not complete two of his terms, one having been interrupted by the war, and the other terminated by his death, which occurred December 1, 1873. He is said to have been a man of the most extraordinary industry—and lawyers know that in their profession no quality is more valuable than this.

Judge John M. Taylor is authority for the statement that Walker was probably more popular than any other man who had ever lived in his Circuit. But this popularity seems to have been secured not by gracious manners or a genial disposition, though he had both, so much as by the sterling qualities that he was known to possess.

He was very absent-minded, and frequently involved himself in absurd situations. Unlike Marchbanks, he was a man of humor, fond of a jest himself and tolerant of the jokes of others. It happened on one occasion that his Court was in session at Lebanon on April 1, and the Sheriff and the lawyers, aware of his good humor and of his tolerant disposition, determined upon a practical test of them. They secured a calf, carried it to the court-room in the second story of the building, and secured it by ropes to the Judge's seat. At the hour for the meeting of the Court, the jury was in the box and a great company of spectators had assembled. Judge Walker, with his usual abstracted manner, entered the court-room, walked up the aisle to the bench, apparently unconscious of the presence of any one except himself, and really unconscious of the presence of the calf. As he was about to take his seat he discovered the presence of the usurper,

however, and seizing it by the tail, said in a voice audible throughout the court-room: "Where the h—l did you get your commision?"

Judge Walker was a plain and direct man in personal and in professional conduct. Like Marchbanks, he had extraordinary capacity for instructing a jury in the law, and his charges were always to the point and brief, yet comprehensive. He was not a politician nor an office seeker, and the offices that he held came to him practically unsought. Before the war he was an ardent Whig, and while allied with the Democratic party after the war, he claimed to his last day to be a Whig. He was the equal of Marchbanks as a lawyer and as a Judge, and was a man of much more amiable and attractive quality.

The Hynds family is Scotch. Its original name was Hyndford, and its home Edinburgh, in which city there is a locality still known as Hyndford Square. The Scottish Reformation divided the family, some adhering to the old faith while others dissented. The Presbyterian Hyndfords were among the great company of people of their faith who regenerated the North of Ireland. In order to distinguish themselves from the Catholic Hyndfords, they took the name Hynds. The founders of the family in this country crossed the ocean at some time before 1775, and were honorably represented in the Continental army.

George H. Hynds came to the Watauga country at the close of the last century, settling near the line between the present counties of Greene and Cocke. Here **Robert H. Hynds** was born, April 6, 1802. The family was poor and the son passed his early years at hard work and with but little schooling. When

he was about fifteen years of age his father moved to West Tennessee, but he remained in East Tennessee. From a diploma in the possession of his descendants, it appears that he graduated September 10, 1819, at Union Seminary. Where Union Seminary was, it is impossible to say with certainty. It was one of the ambitious but evanescent seats of learning that at that time abounded in East Tennessee. This diploma was probably won by hard work, without the aid of friends or money.

On April 8, 1823, Robert Hynds was licensed to practice law at Rogersville. He had studied under Judge William B. Reese. He located at Dandridge, in Jefferson County, riding a circuit that extended over half the length and breadth of East Tennessee. He gave especial attention to the land law and became very proficient in it. In 1836 he served in the State Senate from Cocke, Jefferson, Sevier and Blount Counties. At one time he was an unsuccessful candidate for Chancellor against Thomas L. Williams. In 1852 Governor Campbell appointed him special Circuit Judge during the disability of Judge Robert Anderson, of the Twelfth Circuit, and he served acceptably for a year. In 1853 he was elected Judge of the Twelfth Circuit by unanimous vote of the Legislature. In 1854, the amendment of the Constitution giving the election of Judges to the people, having gone into effect, he was elected by the people, defeating Judge Anderson. He gave great satisfaction as a Judge, being a good lawyer, and a thoroughly upright and conscientious man.

His death occurred in July, 1856, in Greene County.

In politics Judge Hynds was a Whig, and was a

Clay elector in 1844. While on the bench he held aloof from politics, having the highest regard for the judicial office. He was a man of pure life, and a devout and consistent Christian.

He was twice married, first, in 1826, to Miss Mary J. Moore, of Jefferson County, who died in 1850; and second, in November, 1851, to Miss Ann B. Swann, an English lady, who survived him and died in 1892. The children of the first marriage were numerous, and they are now among the good citizens of West Tennessee, Georgia and Texas. The only child of the second marriage was Alexander Hynds, who is now a lawyer at Dandridge, and occupies an honorable position at the bar, and has also displayed a decided aptitude for literature.

In person Judge Hynds was large and portly. He was a man of genial disposition and of fine address, and his charity and hospitality were proverbial.

CHAPTER VI.

James K. Polk—Aaron V. Brown—Cave Johnson—
William B. Campbell—Ephraim H. Foster—Lunsford
M. Bramlett.

James Knox Polk was the eldest of ten children, and was born in Mecklenburg County, North Carolina, November 2, 1795. The family name was originally Pollock, but was gradually abbreviated to its present form. The Pollocks came from the North of Ireland as part of the Covenanter immigration, and settled in Maryland, whence they moved to Pennsylvania, and were finally established on the western frontier of North Carolina before the Revolution. Members of the family were honorably connected with the early patriotic movements in North Carolina, and several of them were in the Continental army. The entire connection appears to have been staunchly patriotic.

The father of the future President was a plain farmer, intelligent and enterprising, and an ardent Jeffersonian in politics. He brought his family to Tennessee in the Autumn of 1806, and was one of the pioneers of the fertile Duck River Valley.

In the neighborhood schools, James K. Polk acquired the beginnings of an English education, but his father fearing the results of the confinement of school life, especially in view of the fact that his son had been compelled to undergo a painful surgical

operation, determined to make a merchant of him. Accordingly, much against his will, the young man was, in the year 1813, assigned to the various unattractive duties of clerk in a country store. This was one of innumerable instances of the wisdom of parents in selecting occupations for their sons.

The young man endured for a few weeks, with difficulty, this uncongenial pursuit. His solicitations for release were so earnest and persistent, that finally they were successful, and in July, 1813, he was placed under competent teachers for the continuation of his education. In 1815 he entered the Sophomore class at Chapel Hill, and graduated with distinction in 1818. In college he was a diligent and faithful student.

Returning to Tennessee, he began to read law in the office of Felix Grundy in 1819, and was admitted to the bar in 1820. He began his professional life at Columbia, and within a year had won the public confidence as a competent and trustworthy lawyer. He was thoroughly educated, and had read law with diligence and understanding, and carried to the bar the habits of application that had made him successful at college.

As early as 1823 he was attracted by politics, and was elected to represent Maury County in the lower house of the Legislature. He had previously been Clerk of the House. In the Legislature he was distinguished for ability in debate, and for faithful and efficient attention to business. He had already given his adherence to General Jackson, and was one of those who supported him for Senator to succeed John Williams. At the August election, 1825, he was elected to Congress. He was a "strict construc-

tionist," and utterly repudiated the liberal interpretations of the Constitution that were favored by the Federalists. He consistently opposed all appropriations for improvements within the States. At the outset of his career he declared himself the opponent of the Bank of the United States, and to this position he steadfastly adhered.

When first elected he was one of the youngest members of Congress. His first speech was in support of a proposition to amend the Constitution so as to confer the election of President and Vice President upon the people. The speech made a favorable impression, and his associates at once saw that the new member was a man of thoroughness and of substantial ability, and not a mere declaimer. At the same session he made another strong speech in the debate upon the Panama Mission.

He was successively re-elected to Congress until 1839, when he withdrew from the contest in order to become the Democratic candidate for Governor.

In December, 1827, he was given a place on the Committee on Foreign Affairs. A little later he was made chairman of a special committee to consider that part of the President's message which called the attention of Congress to the existence of a surplus in the Treasury. The report that he presented was an admirable paper, and a strong presentation of his opinion of the limitations of the power of Congress to raise revenue. In 1832 he was transferred to the Committee on Ways and Means. At that session the Directors of the Bank of the United States were called before this committee to answer a charge of obstructing certain measures of government. The majority

report exonerated the Directors, but the minority report, prepared by Mr. Polk, was a severe arraignment of the Bank, and a vigorous condemnation of the policy of the government in creating it. A consequence of this report was that the friends of the Bank everywhere declared war upon him. At Nashville a public meeting was held to denounce him, and his next election was bitterly, but unsuccessfully contested.

During the session of 1833 Mr. Polk was Chairman of the Ways and Means Committee. This selection was made largely because the President needed a strong man and a trustworthy friend at the head of that important committee, to sustain his course in removing the public deposits from the Bank of the United States. One of Mr. Polk's greatest speeches was made in opening the debate upon the removal. By the friends of Jackson it was considered a complete vindication of the President's conduct. In 1834 the Speaker of the House of Representatives resigned, and Mr. Polk was a candidate for the place, but was defeated by John Bell. In 1835, however, he was elected, and was re-elected in 1837. He was elected Governor of Tennessee in 1839, defeating Newton Cannon, and was an unsuccessful candidate for that office against James C. Jones in 1841, and again in 1843. In 1839 he had been mentioned for the Vice Presidency on the Democratic ticket, but the party preferred Richard M. Johnson. In 1844 he was the Democratic candidate for President, and was elected, defeating Henry Clay by an electoral vote of 170 to 105. His administration was full of important events, such as the war with Mexico; the annexation of Texas; the acquisition of

New Mexico and California; the admission of Texas, Iowa and Wisconsin as States; the settlement of the Oregon boundary dispute; the re-establishment of the independent treasury; the establishment of the Smithsonian Institution, and of the Interior Department of the Federal government.

Mr. Polk was a man of a very high order of ability and of courage. Naturally he was fond of popularity, but at more than one time he found his convictions opposed to the popular will. In no instance did he swerve from duty. His course in the bank controversies twice endangered his election to Congress, and at each of these times the show of opposition would have dismayed a man of less determination. On both occasions, however, he boldly met the issue and was triumphantly re-elected. His enemies charged him with subserviency to General Jackson, but it is more just to say that, on the great public issues of the time, his opinions were in accord with those of General Jackson. In almost every instance these opinions had been avowed and were well-known to the public before Mr. Polk was elected to Congress, and before General Jackson became President. It is a mistake to suppose that General Jackson originated all the great measures that were carried out by his administration. Indeed, as to the Bank of the United States, there are good grounds for believing that General Jackson was not always its most vigorous opponent, but at one time regarded it not without favor.

A few extracts from President Polk's inaugural address are presented here, as indicating his opinions upon the great public questions of that time. He says: "The Constitution itself, plainly written as it is, the

safeguard of our federative compact, the offspring of concession and compromise, binding together in the bonds of peace and union this great and increasing family of free and independent States, will be the chart by which I shall be directed.

“It will be my first care to administer the government in the true spirit of that instrument, and to assume no powers not expressly granted or clearly implied in its terms. The government of the United States is one of delegated and limited powers, and it is by a strict adherence to the clearly granted powers and by abstaining from the exercise of doubtful or unauthorized implied powers, that we have the only sure guaranty against the recurrence of those unfortunate collisions between the Federal and State authorities which have occasionally so much disturbed the harmony of our system, and even threatened the perpetuity of our glorious Union.

“To the States respectively, or to the people, have been reserved ‘the powers not delegated to the United States by the Constitution nor prohibited by it to the States.’ Each State is a complete sovereignty within the sphere of its reserved powers. The government of the Union, acting within the sphere of its delegated authority is also a complete sovereignty. While the general government should abstain from the exercise of authority not clearly delegated to it, the States should be equally careful that in the maintenance of their rights they do not overstep the limits of powers reserved to them. One of the most distinguished of my predecessors attached deserved importance to the ‘support of the State governments in all their rights, as the most competent administration for our domestic

concerns, and the surest bulwark against anti-republican tendencies,' and to the 'preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad.'"

This was the accepted doctrine of the Democratic party, especially in the South. It was never the Federalist doctrine, and has practically ceased to be the Democratic doctrine. In so far as it intimates the existence of a right of secession, if it be susceptible of such a construction, we will all concede the question to be settled. The appropriation also has finally allured the Democratic party very far from its old doctrine of strict construction, and we now look back with a sense of complacent superiority upon the solicitude of our forefathers for the integrity of the Constitution. It may be that the strict constructionists were too narrow and rigid in their opinions, but it is submitted that there is a happy mean between extreme strict construction and treatment of the Constitution as unwritten. It is hardly too much to say now, that liberal constructions of the Constitution have gone so far that the powers of Congress, especially in emergency, are practically unlimited.

Upon the subject of the tariff Mr. Polk said: "In executing this (the taxing) power by levying a tariff of duties for the support of the government, the raising of revenue should be the object, and protection the incident. To reverse this principle and make protection the object, and revenue the incident, would be to inflict manifest injustice upon all other than the protected interests."

In regard to slavery he used the following language: "It is a source of deep regret that in some sections of

our country, misguided persons have occasionally indulged in schemes and agitations whose object is the destruction of domestic institutions existing in other sections—institutions which existed at the adoption of the Constitution, and were recognized and protected by it. All must see that if it were possible for them to be successful in attaining their object, the dissolution of the Union and the consequent destruction of our happy form of government, must speedily follow.”

His opposition to national banks was expressed in language that might have been used by Jackson himself. “We need no national banks or other extraneous institutions planted around the government to control or strengthen it in opposition to the will of its authors. Experience has taught us how unnecessary they are as auxiliaries of the public authorities—how impotent for good and how powerful for mischief.”

The quotations will show that Mr. Polk’s democracy was of the most orthodox kind, judged by the standards of his own time.

Mr. Polk was a graceful, fluent, sometimes even eloquent, and always logical and forcible speaker. He excelled particularly as a debater, and it was largely by means of this excellence that he defeated Cannon for Governor in 1839. Foote thought him the best stump speaker of his time. In Congress he was always courteous, and his speeches never descended to personal or party abuse. He did not seek to shine as a rhetorician, but rather to be a useful member. He had not much of imagination, of fancy or wit. All his abilities were substantial. As a proof of the thoroughness with which he did everything to which he set his hand, it is stated that during his long term of ser-

vice in Congress, he did not miss a single division of the House, but that his name is on every list of yeas and nays. It was these qualities of fidelity and thoroughness that made him a trusted and successful man. In order to understand clearly that he was a man of genuine ability, we need only to remember that in his time, the House of Representatives was full of strong men, such as John Quincy Adams, McDuffie, of South Carolina, Mason, of Virginia, and Bell, of Tennessee. With the ablest Whig leaders he was often in debate, and never without credit to himself. That he held a position of leadership among the Democrats of the House is proof sufficient of superior abilities.

He was virtually the founder of the system of public speaking by rival candidates for the Governorship, which has prevailed in Tennessee ever since his day. Public debate was a strong and keen weapon in his hands in his race against Cannon, who was not gifted as a debater, but in his canvass with "Lean Jimmy" Jones, he was impaled upon his own weapon. In real ability Jones was by no means his equal, but in rough and tumble political debate he had no peer. He did not reason nor care to reason; he joked his dignified and serious competitor out of office. This is not said in disparagement of the popular Whig leader, but is merely the statement of a fact, which it is presumed will not be disputed.

Mr. Polk was a serious but amiable man, and his private life was above reproach. His reputation as a public man also is clear. His integrity was never questioned. It was sometimes said that he was not sufficiently positive. It is submitted, however, that this was not a well-founded criticism. He was a

thoughtful man, and, therefore, not prone to extremes of speech or conduct. The popular idea of positiveness in Tennessee in his time, was the method of General Jackson, to swear by the "Eternal," and on the slightest provocation to strike and spare not. Mr. Polk did not swear by the Eternal, and did not shed blood, nor even engage in broils, but he succeeded nevertheless in becoming President of the United States, in winning a great name, and in rendering important services to his country.

Aaron V. Brown was born in Brunswick County, Virginia, August 15, 1795. It will be found from these Sketches that Brunswick and neighboring counties have contributed liberally to the best element of population in Tennessee. Governor Brown's father was the Rev. Aaron Brown, a Methodist minister, who, enlisting before the age of twenty-one, served with credit in the war of the Revolution.

Aaron V. Brown was educated at Westrayville, Nash County, North Carolina, and at the Chapel Hill University. He graduated as valedictorian of the class of 1814. During his college life his parents had moved to Giles County, Tennessee, where he joined them after his graduation. In 1815 he began the study of law in the office of James Trimble, at Nashville, and began the practice in that city, but soon afterwards returned to Giles County, where his industry and ability speedily secured a good business. He formed a partnership with James K. Polk, covering several counties. This partnership continued until Mr. Polk entered Congress. Mr. Brown served in the State Senate from 1821 to 1827, except in 1825. In 1831 and in 1833 he represented Giles County in the

lower house of the Legislature. He was wisely in favor of limiting the application of capital punishment, and at the session of 1831-1832 prepared a report on the subject for the Judiciary Committee, which attracted general and favorable attention. That Governor Brown was a man of reading and of philosophic turn, will be indicated by certain of the sub-heads of this really able and learned document, as for instance: "The Origin of Human Laws;" the "Laws of Nature;" "The Right as Supposed to be Founded on Divine Revelation;" "The Fallibility of Human Tribunals." The paper is excellently written and is a convincing presentation of the author's opinions.

Governor Brown was elected to Congress as a Democrat, in 1839, and served continuously till 1845. He was an active and conspicuous participant in the great debates that occurred during his service, and was a member of the committee that framed the tariff of 1842, though in the minority that disapproved the bill. As chairman of the Committee on Territories he reported, in 1845, a bill organizing a territorial government in Oregon. This bill passed the House but failed in the Senate.

His service in Congress ending when Mr. Polk became President, he determined to devote himself thenceforth to his personal affairs, but before he reached home the Democratic party in Tennessee had nominated him for Governor in opposition to Ephraim H. Foster, the Whig candidate. Despite the fact that the Whigs had recently been repeatedly victorious, Brown entered the field, made a vigorous canvass and was elected by a majority of about fifteen hundred. In 1847, however, he was defeated. In 1848 he was a can-

didate for Elector for the State at large upon the Democratic ticket, and fully sustained his reputation as a popular orator. In 1850 he was a member of the Southern Convention held at Nashville, and was present at both sessions. He was not a disunionist, but disapproved all utterances and tendencies of the Convention in that direction. He was actuated by genuine patriotism, but the policy which he advocated illustrates forcibly the dilemma in which he and all who like him loved the Union but believed the legislation of Congress against the spread of slavery to be unconstitutional, were placed.

He advocated, not secession, but retaliation. In a letter addressed to the Nashville Union, in June, 1850, he said: "I would advise her (the South) to resort to every sort of municipal regulation within the powers of the States; to quarantine regulations of the most annoying character; to every species of embarrassment to her (the North's) trade and commerce. I would have every Southern Legislature earnestly to recommend to every merchant, trader, and factor, to forbear the purchase and traffic in a single commodity of Northern manufacture; and to every farmer and planter and day laborer of the South, forthwith to give up the purchase and use of any and every article of Northern fabric; to give bounties and premiums for the establishment of factories of every sort and description throughout the Southern States; to expend their last dollar in the construction of railroads, turnpikes and canals, from every region of the interior to the best exporting and importing cities on the Atlantic and the Gulf."

This he declares would be "A retaliation, sanctioned

and approved by the great law of nature and of God, and never to be discontinued until it induced a change in the oppression of our adversaries."

As to the Union, he says: "The Union is my property—my inherited property—which I regard of great value. I never mean to permit the North to take it from me, nor to induce me by its aggressions to throw it away."

Southern men who loved the Union were in sore straits at that time. Governor Brown's plan appears to us now, to have been wholly impracticable, and in its conception hardly worthy of his unquestionable ability. But it was a compromise, a device to avoid the inevitable result that came in 1861. There was really no middle ground, but here was an effort to make an artificial standing place. To such artificial measures, compromises suggested by patriotism, but opposed to reason and experience, Henry Clay gave the best of his great ability, thereby postponing for a few years the unavoidable conflict between irreconcilable policies.

In his messages, Governor Brown continued the advocacy of the "amelioration" of the Criminal Code of Tennessee, and missed no opportunity to declare himself in favor of a system of public instruction. In his message of December 7, 1845, he called attention to the fact that there were two hundred and fifty thousand persons in the State, between six and twenty-one years of age, and only one hundred thousand dollars, or forty cents per capita, appropriated for public schools. He advocated the use of proceeds of public land sales, in aid of the schools.

On May 16, 1846, the United States made a requi-

sition on Tennessee for three regiments of soldiers for the Mexican war. On May 24, Governor Brown issued a call for volunteers, apportioning the same equally among the grand divisions of the State. Thirty thousand, or ten times as many as were needed, responded, and thus Tennessee deserved again, her name of "Volunteer State."

Governor Brown was an ardent advocate of the annexation of Texas, and found himself, on account of his course in that matter, involved in controversies with Thomas H. Benton and with John Quincy Adams.

It was during his last term in the Legislature that the effort was made to abolish the existing court system in Tennessee. The attempt was not prompted by high motives, and it is to his lasting honor that he vigorously opposed it.

The last public position that he held was that of Postmaster-General in Buchanan's Cabinet. In this position his really extraordinary abilities were creditably displayed. It was through his efforts that shorter communication with California, by way of Tehautepec, was established, and the overland mail routes to the Pacific coast put in operation. He died in Washington, March 8, 1859.

Cave Johnson was born in Robertson County, Tennessee, January 11, 1793. After attending various primary schools and academies, he was sent to Cumberland College at Nashville. He was there in 1811, when the call was made for the Tennessee militia to go to Mississippi. Actuated by an enthusiastic patriotism, he set about raising a company of students of the college. He succeeded, was elected Captain,

and tendered his gallant company to General Jackson. Greatly to his mortification, however, the General declined their services, and advised them to return to their studies. Being thus denied the opportunity to prove their courage, the young men resumed their academic pursuits, but not with the utmost good-will, for the time, toward General Jackson. The impartial observer will say that both parties acted well. The boys showed a commendable spirit, and Jackson a sound judgment.

In 1812 young Johnson began to study law in the office of W. W. Cooke, with whom he remained until the Autumn of 1813, when his father's brigade of Tennessee militia was sent to the aid of Jackson in the Creek war. He served as Deputy Brigade Quartermaster in the campaigns of 1813 and 1814. Returning home in May, 1814, he entered the office of another distinguished lawyer, Parry W. Humphreys, and soon afterwards obtained his license.

According to his own account, he was as precipitate in love as he had first been in war, and not more fortunate. It would appear that he paid his addresses, as soon as he had secured his law license, to a lady fifteen years of age, by whom he was rejected. Seeking relief from this disappointment in his profession, he seems to have become an unusually hard worker, and in 1817 was elected Attorney-General for his Circuit, by the Legislature sitting at Knoxville. In 1825 he was elected to Congress, and was re-elected until 1837, when he was defeated by ninety votes. Resuming the practice of law, he found that the lady to whom he had paid his addresses in 1814 was now a widow, and finally his

revived, or persistent, affection was rewarded, and they were married in 1838. It seems that during all these years his affections had not been bestowed elsewhere. In the election of 1839 he was returned to Congress, and was re-elected in 1841 and again in 1843. In this last election his competitor was Gustavus A. Henry. When Mr. Polk became President, he appointed Johnson Postmaster-General, and he filled that position acceptably for the full term.

In 1853 he was for a few months Judge of the Circuit Court, and in 1854 was elected President of the Bank of Tennessee, and served in that capacity for six years. In 1860 he was Commissioner of the United States in settling the affairs of the United States and Paraguay Navigation Company.

He took no part in the war, but his sympathies were with the South, though he had at first opposed secession. He was pardoned by Andrew Johnson in 1865, and in 1866 was elected State Senator to fill a vacancy, but was not allowed to take his seat. He died November 23, 1866.

Mr. Johnson left an enviable reputation. His career proves that as a lawyer he possessed abilities of a high order. In public life he was conservative, but always capable and perfectly honest. As President of the Bank of Tennessee he was devoted to his duties, and more inclined to follow the suggestions of his judgment and conscience, than was pleasing to his party managers. He would not consent to have the bank used for political purposes, nor its competent officers displaced for political reasons.

In a book called "Picturesque Clarksville," is a letter written by him, in 1862, to his sons, who were in

the Confederate army. It is the letter of an old man, conscious of physical infirmity and awaiting his end with resignation. It reviews with just pride, but without boasting, the events of a long and useful life, and refers in terms of simple and sincere affection and sorrow, to his dead wife. A note of pathos pervades the letter, and it is evident that the writer is a man of sincere piety. His successes and his reverses are alike narrated in simple language, without praise of himself or censure of his enemies. He was one of the foremost men of the State in his generation, and his name is never omitted from the list of those whose abilities and public services have reflected most honor on Tennessee.

William Bowen Campbell, son of David Campbell and his wife, Katherine Bowen Campbell, was born February 1, 1807, on Mansker's Creek, Sumner County, Tennessee, twelve miles from Nashville, and died at his residence near Lebanon, August 9, 1867. He was the last of the Whig Governors of the State, and served in 1851-1853. He was descended from two distinct families of Campbells. The family of his paternal grandmother of that name, is best known. These Campbells lived originally at Inverary. They formed a part of the Scotch emigration to Ireland, whither they went about the year 1600.

In 1726 John Campbell, the father of a large family, came to America and settled in Lancaster County, Pennsylvania. About 1730 he removed with three of his sons, Patrick, David and Robert, from Pennsylvania to Augusta County, Virginia. A great-grandson of John Campbell was General William Campbell, who commanded the American forces at

the battle of King's Mountain, in which eight of his family were engaged. David Campbell, the son of John, was the great-grandfather of William Bowen Campbell. Another David, son of the first, from whom Campbell Station, in Knox County, takes its name, was his grandfather. Through his mother he was related to Lieutenant Reece Bowen, noted in the history of the King's Mountain campaign. The father of William B. Campbell, the third David in regular succession, was a plain farmer, but a man of good morals and of more than ordinary intelligence.

The future Governor was the eldest of six children and was raised upon a farm. When he was seventeen years of age his father failed in business, and for the next two years he earned his living as a wood cutter. The father, however, being solicitous for the welfare of his children, gave them every advantage in his power, and William B. Campbell was sent to Abingdon, Virginia, where he completed his education under his uncle, Governor David Campbell, with whom he afterwards studied law. He also attended a course of law lectures by St. George Tucker, of Winchester, Virginia. He began the practice in Carthage, Tennessee, about the year 1829, and in 1831 was elected, by the Legislature, to the office of Attorney-General for that Circuit, his opponent being Bromfield L. Ridley. He now removed to Sparta, in White County, where he resided for a few years. In 1835 he returned to Carthage and was elected Representative in the Legislature from Smith County, and in the same year was married to Miss Fannie I. Owen, only daughter of Dr. John Owen, of Carthage. In 1836 he was elected Captain of a company of volunteers for the Creek and

Seminole war, having resigned his position in the Legislature to enter the army. Throughout a campaign of seven months, he remained at the head of his company, and established an enviable reputation for courage and skill. In a number of the hard battles of that war, his company displayed great gallantry and won the cordial commendation of the General.

In 1837 he became a candidate for Congress against General William Trousdale, a man of large reputation and of acknowledged ability, who had been the commander of the regiment in which he had served in the Florida war. Campbell was successful by a majority of more than seventeen hundred votes. The two were opposing candidates again in 1839, when James K. Polk was making his great fight for the Governorship, and Campbell was again victorious. In 1841 he was again elected to Congress, but this time without opposition. In Congress he served on the committees upon Claims, Territories, and Military Affairs, and was an earnest and industrious advocate of economy in public expenditures. His speeches were clear, strong and able, and won the respect of his associates. At the close of his third term in Congress he voluntarily retired to private life and resumed the practice of law. Soon afterwards he was elected Major-General of his military division.

When Governor Brown made his call for Tennessee troops for the Mexican war, in 1846, Campbell was among the thirty thousand who volunteered. The First Regiment of Tennessee Volunteers was organized at Nashville in May, 1846. It was composed entirely of Middle Tennessee troops. It elected William B. Campbell, Colonel, and Samuel R. Anderson, Lieutenant-Colonel. Campbell was remembered

for his gallantry and ability in the Florida war. In June, 1846, the regiment started to the seat of war. The route was by steamboat to New Orleans; thence by sailing vessels across the Gulf of Mexico, and by steamers up the Rio Grande to Camargo, General Taylor's point of departure. The battle of Monterey was fought on September 21, 22, and 23, 1846. Taylor, with a raw and undisciplined force of six thousand, undertook to capture a city strongly fortified, and garrisoned by about twelve thousand men. In these days of hard fighting the First Tennessee displayed a desperate courage, losing one-third of its number. It was the first to enter the city and to raise the American flag within its walls. In a letter written to his wife from the camp near Monterey, dated September 25, 1846, Colonel Campbell said: "My regiment went early in action on the morning of September 21, and was ordered to sustain some regulars who were said to be taking a fort at one end of the city. When I arrived in point blank musket-shot of the fort, no regulars were visible; they had filed to the left and taken shelter behind some houses, so that the command was left exposed to the most deadly discharge of artillery and musketry that was ever poured upon a set of men. For a moment it had a most terrifying effect, for they were thrown into consternation and confusion until I rallied them and brought them to the charge, and they bore the fight with wonderful courage, rushing upon the fort and taking it at the point of the bayonet. It was most gallantly done."

This charge became famous throughout the American army and added greatly to the reputation of the Tennessee soldiers for gallantry. The form of com-

mand used by Colonel Campbell in ordering the charge was: "Boys, follow me," and this has become one of the favorite phrases of Tennessee oratory. From this time forward the regiment was known as the "Bloody First." In none of the wars in which Tennesseans have been engaged have our soldiers done her more honor in anything, than did Campbell's regiment in this desperate charge. It must be remembered that they were raw militiamen, poorly drilled and badly armed. The First Tennessee was among the troops detached from Taylor's army and transferred to the command of General Scott at Vera Cruz. In the siege of that city Colonel Campbell was intimately associated with Captain Robert E. Lee, in the construction of an important marine battery. The regiment was in the battle of Cerro Gordo, April 18, 1847, but in this action Colonel Campbell commanded a brigade consisting of his own and of a Pennsylvania regiment. For his gallantry in this engagement, he was praised by General Scott, who sent his compliments upon the battle field, through Lieutenant McClellan. On another occasion General Scott said of Campbell: "Sir, I envy him his part at Monterey. He is truly worthy of the respect and love of every soldier in the American army."

This was the last battle in which the "Bloody First" took part. It had entered the service for one year, and was sent home to be mustered out. No officer in the American army in the Mexican war enjoyed in a higher degree the respect and confidence of his associates than Colonel Campbell. The memory of the "Bloody First" and of its gallant commander will always be honored by the people of Tennessee. Col-

onel Campbell returned from Mexico in the Summer of 1847, and was by the Legislature of 1847-1848, elected by unanimous vote Judge of the Circuit Court. He succeeded Judge Abraham Caruthers. As a Judge he commanded respect and esteem, both by his undisputed ability and by the extraordinary purity of his character. He was a sound, impartial and thoroughly competent Judge.

In 1851 he was nominated, by acclamation, as the Whig candidate for Governor. At the time of his nomination, Meredith P. Gentry said of him in a public speech: "Although Tennessee is rich in noble sons, though, like the mother of the Gracchi, she can proudly point to her children and say with truth, these are my jewels; yet, in my opinion, she has not within her broad limits a nobler son than William B. Campbell. In integrity and honor, in nobility and truth, in courage and patriotism; in all that constitutes a high, noble, and manly character, he has no superior."

In accepting the nomination, Campbell said: "I accept with a pledge to my friends of a heart devoted to the union of these United States, and to the honor and prosperity of my native State."

He was elected Governor, defeating William Trousdale, the most popular and influential man of his party at that time. It was in this campaign that he was signally aided by our brilliant East Tennessee orator, Thomas A. R. Nelson, who, at great personal sacrifice, took the stump as his representative. As Governor, Campbell displayed the same qualities that had made him successful in other positions. He was able, firm, impartial, and perfectly honest. At the end of the term he was urged to become a candidate again, but

declined, voluntarily retiring, for the purpose of giving attention to his private affairs.

In 1853 he moved his family from Carthage to Lebanon, and accepted the position of President of the Bank of Middle Tennessee. In the Presidential campaign of 1860 he supported Bell and Everett, and in 1861 canvassed the State in opposition to secession. He was an unswerving and outspoken supporter of the Union, and was among the most prominent of the Tennesseans who refused to go with the State when it seceded. He was offered the command of all the Tennessee forces "raised and to be raised for the Confederate army," but declined. In May, 1862, he was unanimously chosen president of a mass meeting of Union citizens held at Nashville, and composed of such men as Edmund Cooper, Jordan Stokes, Russell Houston, E. H. East and Balie Peyton. This meeting appointed a committee which prepared an address to the people of Tennessee, urging a return of the State to the Federal Union.

On July 23, 1862, Governor Campbell accepted the office of Brigadier-General in the Federal army, with the understanding that he should not be assigned to duty in the field. It is said that he accepted this position with the hope that he might act as a peacemaker between the government and the people of Tennessee. Finding that the condition of affairs forbade all hope of this, and his health becoming impaired, he resigned in September, 1862, having resolved that he would never draw his sword against the people of Tennessee, even though he believed them to be wrong in seceding.

In 1864 he was favorably mentioned in connection

with the nomination for the Vice Presidency upon the Democratic ticket. Draper, the historian, wrote of him at this time: "He has always been a conservative in politics, kind, conciliating, yet firm and gentlemanly, the very soul of honor, and never guilty of an unworthy habit or a mean action." He had at this time identified himself with the Conservative Party, in connection with Henry Cooper, Thomas A. R. Nelson, Balie Peyton, and other prudent and moderate Union men. These men presented to the State an electoral ticket in support of General McClellan, and Governor Campbell headed this ticket as one of the Electors for the State at large. The Military Governor, Andrew Johnson, issued orders regulating the election, and, as Campbell believed, unjustly excluding many who were entitled to vote. This action Campbell vigorously denounced with the result of producing a breach between Johnson and himself, but the Governor adhering to his order, the electoral ticket was withdrawn. In August, 1865, Campbell was elected to the Thirty-ninth Congress by a large majority, but the Representatives and Senators from Tennessee were at first refused admission to their seats, although they had been recognized by the Executive. Campbell remained in Washington during the impeachment trial, was reconciled with President Johnson, and was one of his most trusted advisers throughout the trial. In June, 1866, the Senators and Representatives from Tennessee were admitted to the Thirty-ninth Congress, and from that time Campbell gave to Johnson's administration his unwavering support. At this time, as during his former terms of service, he was recognized as an energetic

and capable man, devoted to business and to the public welfare, and was placed upon a number of leading committees. This was his last public service.

With the exception of Andrew Jackson, Campbell, in the opinion of many, was Tennessee's best and most competent soldier. In political life he was honest, fearless and sagacious. He was a studious man, not easily excited, far seeing, and while conservative, was always firm and determined. The cast of his mind was such as fitted him to be a Judge rather than an advocate. His judgments were formed with care, but with absolute fairness and impartiality. He had none of the arts of the demagogue, but was sincere in public as well as in private speech. He was a modest and retiring man, and not an office seeker; such positions as he held came to him by the will of the people in recognition of his worth and ability.

In all respects he was a substantial man, and thorough. Whatever he undertook, he did well. Physically, mentally and morally he was well developed and symmetrical. Though one of the bravest and most determined of men, he was at the same time one of the kindest. He was a fine judge of human nature, and generally the turn of his mind was practical. He is said to have been of a sanguine and nervous temperament, and at times liable to irritation, but only for the moment. As a rule he was genial, approachable by all, and kindly disposed. All in all, he was one of the best rounded and most admirable men in the history of the State.

Ephraim H. Foster was born in Nelson County, Kentucky, September 17, 1794. His father moved with his family to Davidson County, Tennessee, in

1797. The son was well educated, being a graduate of Cumberland College, afterwards the University of Nashville, in the class of 1813. As soon as he left College he began the study of law in the office of John Dickinson.

When the Creek war began he volunteered, and was made General Jackson's private secretary, a position which one would imagine to have been the most difficult in the army.

At the end of the war he returned to the law. So rapidly did his business increase that within a short time he sought a partner, and found a most acceptable one in William L. Brown, who was afterwards upon the supreme bench.

In 1817 he married the widow of his preceptor, John Dickinson.

When Judge Brown went upon the supreme bench Mr. Foster formed a partnership with Francis B. Fogg, which was continued for many years.

In 1829 he was elected to the Legislature. In 1832 he seems to have decided to devote himself to politics, and became a candidate for the United States Senate against Felix Grundy, John H. Eaton and William E. Anderson. The contest was long and bitter, but finally Foster withdrew and gave his influence to Grundy, who was elected. Up to 1835 he had been, like most of the prominent men of Tennessee, a warm supporter of Andrew Jackson, but in 1835 he united with the majority of the Tennessee delegation in Congress, and with other prominent men, in prevailing upon Hugh L. White to become a candidate for the Presidency.

He was one of the founders of the Whig party in Tennessee. In 1837 he was elected to the United

States Senate to succeed Grundy, whose term expired in 1839. But in 1838 Mr. Grundy accepted a seat in Van Buren's Cabinet, and Foster, receiving the executive appointment, filled the unexpired term. He remained in office until January 13, 1840, having Hugh L. White as his colleague. At the date last named he and his colleague resigned because they could not follow the instructions given them by the Legislature of Tennessee, which was then a Democratic body.

In 1840 Foster was a Whig candidate for Elector for the State at large. The Whigs were triumphant in this election, and to Foster belonged a large part of the credit for their success. In 1843 he was elected Senator a second time and served until March 3, 1845. During this second term he was compelled to undergo a very severe trial. The question of the annexation of Texas was before the Senate, and Foster believed that it was his duty as a Southern man to vote in favor of the proposition. In this, of course, he was in opposition to his party. It appears from his own correspondence that he was exceedingly distressed by his situation at this time.

In 1845 he was the Whig candidate for Governor, but was defeated by Aaron V. Brown. He was not in office again, and died September 14, 1854, having been an invalid for two years.

It is the testimony of all who knew him, that while he was a man of quick temper, and at times prone to extremes of speech and conduct, Foster was, as a rule, a very amiable and attractive man. He was a good hater, but not malicious, and regarded fidelity to friends as one of the cardinal virtues. That his sense of personal and political honor was high, is shown

by his resignation from the Senate. That the doctrine of instruction is not a sound one is now generally believed, but both White and Foster were sincerely and unselfishly patriotic, and believed that they were doing right. If we cannot subscribe to their conclusion, we must at least admire their devotion to principle.

Among the Tennesseans of former times who were once prominent, who performed valuable public service, and whose names are all but unknown to the present generation, is **Lunsford M. Bramlett**.

He was, like many others whose names belong to our history, a native of North Carolina. He was born in Surry County, but exactly when, it is impossible to say. Conflicting accounts of the descent of his father are given, some saying that he was of English origin, and others that he was of Huguenot or Scotch-Irish stock. It is certain that his mother was of the Virginia family of Taylors, and was remotely akin to Zachary Taylor.

The future Chancellor probably was born in the last decade of the last century. It appears that soon after his birth the family went to Wilkes County, Georgia, where he was reared. In 1813 he came to Tennessee, and on March 7, 1814, was admitted to the bar at Pulaski. He was a diligent and persevering student of the law, zealous in behalf of his clients and more than ordinarily prone to enter into their feelings. That he was a successful lawyer, and was esteemed by the public and by the profession, is proved by his elevation to the bench at a time when judicial office was carefully bestowed. He became Chancellor in 1836, and served until 1844. He died in 1854. After retir-

ing from the bench he endured the hard fortune that waits on retired Judges, and was unable to regain his practice.

In his life he was devoted to the law, and after his death the settlement of his estate seems to have occupied surviving members of the profession for some time.

As Chancellor he was distinguished not for brilliancy or readiness of decision, but for careful and conscientious investigation, and an earnest desire to be just. At the bar he was not an eloquent speaker, but a painstaking and zealous advocate, who by fair means made the best of every case.

This is the record, not of a great man, but of an excellent and worthy one, a good lawyer, and a competent and upright Judge.



Irving

CHAPTER VII.

John Bell—John Marshall—Spencer Jarnagin—A. O. P. Nicholson—Gustavus A. Henry.

In the earliest days of Tennessee the great popular leader was John Sevier. To him succeeded Andrew Jackson, the absolute, whose reign extended from 1815 till his death, though his power suffered much by the rise of the Whig party. From the death of Jackson until the civil war, the most distinguished and influential, and probably the most intellectual man in public life in Tennessee, was **John Bell**. He had not the good fortune, like Polk and Johnson, to become President, but in the opinion of many he was the superior of both in ability, and certainly was not the inferior of either in personal worth. He was a native of Tennessee, as neither Jackson, nor Polk, nor Johnson was, and was born near Nashville, February 15, 1797. He was educated at the University of Nashville, graduating in 1814, and was admitted to the bar and began the practice in Williamson County. In 1817, when only twenty-one years of age, he was elected to the State Senate from that county.

It was a grave mistake for even Mr. Bell to enter politics at the very beginning of his professional life. It is an error into which many promising young lawyers have been led by ambition, and by unwise friends.

Bell, however, was exceptional, in that he at once perceived his mistake, and declined re-election.

He moved to Nashville, and for the next ten years gave his time to the profession and to general reading, thus maturing his powers, and becoming an excellent lawyer. He was a careful and discriminating reader and thinker, and was in every way qualified to succeed at the bar, but his inclinations were to the large affairs of state. The cast of his mind was eminently judicial, and this must be remembered in reaching a conclusion as to his course in regard to secession, and as to nearly every important act of his life.

In 1827, believing that the time had come when he might safely yield to his strong inclination toward politics, he became a candidate for Congress. His competitor was Felix Grundy, who was then at the zenith of his reputation as a statesman and as an orator, and moreover had the zealous support of the hero of New Orleans. Bell was of the same political faith. General Jackson, however, was incapable of neutrality, and indeed did not wish to be neutral in this case—but gave his powerful assistance, openly, to Grundy. This was the beginning of the breach between Jackson and Bell. The election resulted in Bell's favor, and for the next fourteen years, continuously, he represented his district in Congress.

Despite the fact that the noisy and tempestuous House of Representatives was not the forum to which his deliberate and cautious, though vigorous genius, was best adapted, he attained a commanding position and a national reputation, and in 1834 was elected Speaker of the House. In 1835 he was defeated for the Speakership by his colleague, James K. Polk.

between whom and himself political war was long flagrant. Bell was easily the most accomplished, thoughtful and effective speaker among the Tennesseans in Congress, but it is probable that he never felt entirely at home in the House of Representatives. His service in that branch of the government ended when he became Secretary of War in Mr. Harrison's Cabinet in 1841. The death of the President and the political defection of his successor brought about the resignation of the Cabinet, with the single exception of Mr. Webster, the Secretary of State.

Bell might have been elected at once to the Senate, but preferred to remain for the time in private life, and declined in favor of Ephraim H. Foster.

Meanwhile events of great importance to him and to the country had occurred. It will be remembered that he had entered public life as a Democratic-Republican, and that he had vigorously opposed the "American system." The occurrences that led to his reluctant but radical change of position, form one of the most interesting chapters in American political history.

He was a broad and liberal man, and was not vindictive, but he could never forget the opposition of Jackson in 1827. Jackson thus gained the enmity of Bell, and soon afterwards adopted a policy which resulted in the alienation of one of his most trustworthy and valuable friends, Hugh L. White. As early, probably, as 1831, Jackson had determined that Van Buren should be his successor in the Presidency.

The Democrats of Tennessee and of other States regarded White as the worthiest to succeed Jackson, but he did not desire the place, or at least did not consider it expedient to seek it at that time. Jackson,

being aware of the pressure upon White, sought to avert his candidacy by offers of various important offices; and failing in this, became enraged and uttered the unfortunate threat, that if White became a candidate he would be made odious to society. In December, 1834, a majority of the Tennesseans in Congress met to consider White's candidacy. The result was that on the day after the meeting a letter was sent requesting him to become a candidate, to which, in his indignation against Jackson, he promptly consented.

With this began a furious factional war. Bell never, up to this time, had placed himself squarely in opposition to Jackson, although he had disapproved the removal of the bank deposits, and while his sentiments were not cordial, he doubtless desired to remain at peace with the President, politically. But the espousal of White's cause was an unpardonable sin in Jackson's eyes.

The Globe, the administration organ, at once declared that White was being used by Bell to injure the administration. Thenceforth it was war to the knife between Bell and Jackson, as between White and Jackson. Bell must not be returned to Congress; so the President declared, but as no one could be found to oppose him, he was returned despite the executive fiat. Meanwhile, Bell was White's chief supporter in Tennessee, more by reason of opposition to Jackson than of love for White. He held the illustrious East Tennessean in great esteem, but realized also that the contest involved his own political life and the political future of Tennessee.

The Jackson men brought Jeremiah George Harris

to Tennessee to edit their paper, and to denounce and ridicule Bell and White. Jackson himself endured willingly the fatigues of a journey from Washington in order to confront and to confound his enemies. The supporters of White were called Whigs, a term, at that time, of reproach in Tennessee. But the people loved and respected White, and had very different sentiments towards Van Buren, and so Jackson's journeyings, and denunciations and threats, were of no effect. The State voted for White, and Van Buren could not even carry the Hermitage precinct.

Up to this time Bell had supported all the more important measures of the Jackson administration. In pursuance of his previously avowed opposition to the American system, he had resisted the tariff of 1832, and had advocated the compromise of 1833. In the nullification troubles he had stood with Jackson. In 1835 he declared that the friends of White would adhere to General Jackson, but would do so from a desire to be consistent and out of respect for their own characters and in support of their own principles. In his celebrated Vauxhall speech, he emphatically renounced personal allegiance to General Jackson.

Thenceforth he was classed as a Whig, and as a term of additional reproach, was called a New Whig. The most important fact in his Congressional record between 1836 and 1841, probably was his vote in favor of receiving petitions for the abolition of slavery in the District of Columbia. For this he was denounced bitterly by the more extreme Democrats, and by not a few of his own party, but was sustained by his constituents.

The first battle between Whigs and Democrats in

Tennessee was in 1839. The proscriptive policy of the Democratic leaders had borne fruit, and now the State was about to pass for a while into the hands of a strong new party led by Bell, with the assistance of a corps of popular and skilled politicians. Newton Cannon was, in 1839, the first avowed Whig candidate for Governor. Mr. Polk, his competitor, was elected; but the Whig party was established. For many years after Tennessee became a State, her public men, with the exception of a very few, were Jeffersonian Republicans, or Democrats, as they were indifferently called. Probably the origin of the division into parties may be found in the contest between Jackson and John Williams in 1823. Phelan calls Crockett the first Tennessee Whig, but the separation was finally accomplished as here stated.

In 1840 Harrison carried Tennessee, over Van Buren, by a vote of sixty thousand against forty-eight thousand, and in that year, for the first time, the Whigs of Tennessee openly professed the policy of protection, but with great caution and to a very limited extent.

In 1841, and again in 1843, James C. Jones, the Whig candidate for Governor, defeated Polk, who was Jackson's successor in the active leadership of the Democrats; and in the presidential election of 1844, Mr. Polk again endured the mortification of losing his own State, so strong and so compact had the Whig party come to be in Tennessee. In 1845 the Democrats were successful in electing Aaron V. Brown Governor over Ephraim H. Foster, but in 1847 the Whigs elected Neill S. Brown to that office.

During all the time covered by these struggles of the new party against the old, the leader of the Whigs

had been John Bell. With him were associated Ephraim H. Foster, Neill S. Brown, Meredith P. Gentry, G. A. Henry and many other men of ability, but as to the actual leadership there was no question. Bell was beyond dispute the ablest man of his party in Tennessee, indeed in the South. In 1847 he had been six years out of office, but never out of politics. In that year he was elected to the Legislature from Davidson County, and by that body was elected to the United States Senate. This was most fortunate for his fame and for Tennessee. No other man in the State was so well qualified, by nature and by study, to fill this important office. Intellectually he had hardly a superior among the public men of the country, if we except Webster and Calhoun. His mind was large and thoroughly balanced; his temperament was equable and philosophic; he had been a diligent and thorough student of the philosophy and history of government, and of general literature; he was a speaker of rare power; a graceful and effective rhetorician, and added to all this he was an honest man of blameless life, and was known to be a sincere patriot. His position in Tennessee was not unlike that of Calhoun in South Carolina; he surpassed all his compatriots by force of intellect and weight of character. For twelve years he remained in the Senate, ranking at first a little below the great triumvirs who had long dominated that august body, and after they had passed away, acknowledging no superior.

By his splendid abilities he brought credit to himself and to the State, and unfailingly he was faithful to his convictions of right and of duty. It was a time of strife and of incessant commotion and change in the

political world. The slavery question could no longer be avoided. Conditions imperatively demanded its consideration, and no solution seemed possible.

Mr. Clay, strong as ever in love of the Union, was still the advocate of compromise, and Bell was one of his associates on the famous committee of thirteen, to which in 1850, the two parties submitted the most important questions of sectional difference. He supported the Compromise Act of that year, which gave the country a brief respite from the irrepressible slavery question.

To the bill to organize the Territory of Nebraska, introduced in 1853, and disposed of in 1854, he was strongly opposed, basing his opposition largely on the injustice to the Indians that would result from its passage. In 1854 he voted against the repeal of the Missouri Compromise, which confined slavery South of latitude 36 degrees, 30 minutes. By this vote he did not please his constituents, but he believed it to be right. By his utterances on the subject of the Lecompton Constitution for Kansas, before its approval by the Senate, he incurred the disapprobation of the Legislature of Tennessee, which was expressed by a resolution passed February 10, 1858, including the following: "That our Senators in the Congress of the United States are hereby instructed * * * to vote for the admission of Kansas as an independent State under what is termed the Lecompton Constitution." He declined, however, to be instructed, voted against the bill and became involved in an unpleasant debate with his colleague, Andrew Johnson. It is clear now that the repeal of the Missouri Compromise was an unwise measure, and only the most extreme partisan-

ship could disapprove Bell's opposition to the Le-compton Constitution.

In 1859 Mr. Bell retired from the Senate. For the last seven years he had been practically a man without a party. In Tennessee the Whigs triumphed for the last time in 1851, when they elected William B. Campbell Governor. It is true that they carried the State in the Federal election of 1852, but it was a barren victory. Pierce was elected by an overwhelming majority, and the Whigs carried only four States. Bell was returned to the Senate, and thenceforth he and Crittenden, of Kentucky, represented the Southern Whigs in that body. But in Tennessee and in the Union, the party which had been led by Webster and Clay had virtually ceased to exist. A new party had been born which ere long was to attain an unequalled ascendancy and to perform mighty works. Bell and Crittenden were true to the principles and traditions of the Whig party to the last, but they stood alone. They were not only the last of the Whigs, but the last of the great men of their generation in the Senate.

It was at a time of uncertainty and anxiety that the great Tennessean finally retired from office. The political skies were angry and full of threatenings, and forebodings of evil oppressed every patriot heart. Bell loved the Union with a surpassing love, and returned to his home apprehensive and despondent. Another presidential election was at hand. The Democrats, long victorious, were now discordant. The convention at Charleston marked a fatal disruption of the party. In a little while Douglass and Breckinridge were in the field as candidates of opposing Democratic factions. The Republicans, hopeful and aggres-

sive, were led by Mr. Lincoln. But there were many worthy men, especially in the South, who would not follow either of the Democratic factions, and were strongly opposed to the Republican policy.

A convention of these, representing twenty-two States, met at Baltimore, May 9, 1860, and nominated Bell for President and Edward Everett for Vice President. Mr. Bell's principal competitor for the nomination was Sam Houston, of Texas. The Party thus represented called itself the Constitutional Union Party, and affirming that political platforms were insincere and deceptive, adopted only a simple resolution, declaring in favor of the Union, the Constitution and the enforcement of the laws. The result is well known. Lincoln was elected and Bell carried only the States of Tennessee, Kentucky and Virginia, with their thirty-six electoral votes. New Jersey cast three votes for him.

The six months succeeding the election were full of distress and grief for Bell and for his friends in Tennessee. Isham G. Harris, the Governor, a man of great ability and boundless persistency and determination, was an avowed secessionist. Bell was not less earnestly opposed to secession. The first effort to carry Tennessee out of the Union failed, and the Whigs hoped that the crisis had passed, but when Lincoln made his call for volunteers, and it became apparent that the seceding States were to be coerced by force of arms, the situation became infinitely embarrassing and distressing. From this time forward nothing could have prevented the secession of Tennessee. It was not Governor Harris and his friends that drove Tennessee into seceding—it was the policy of the Federal

authorities, or rather the force of events, which Tennessee had little part in producing, and which her party leaders had no power to resist.

A knowledge of Mr. Bell's pure character and lofty patriotism, a genuine sympathy for him personally, and a clear perception of conditions in the South, are necessary to an understanding of his conduct in this emergency. There was no sacrifice that he would not have made to save the Union, but he believed now that its destruction was inevitable. He believed also that the policy of the administration was unconstitutional and revolutionary. Alexander H. Stephens declares that Mr. Lincoln's proclamations alone caused Bell and other Southern Whigs to change position. These proclamations, he says, were regarded by the Whig leaders in the South as not less unlawful and oppressive than the edicts of Charles the First for ship money.

It was on April 18, 1861, that Bell, Balie Peyton, Neill S. Brown, Cave Johnson, R. J. Meigs and other Unionists issued an address to the people of Tennessee, in which they said:

"Tennessee is called upon by the President to furnish two regiments, and the State has, through her executive, refused to comply with the call. This refusal of our State we fully approve." This was going very far; but it was not all. A later paragraph contains the following: "Should a purpose be developed by the government, of overrunning and subjugating our brethren of the seceded States, we say unequivocally, that it will be the duty of the State to resist at all hazards, and at any cost, and by force of arms, any such purpose or attempt."

The address further calls upon the State to arm, and to maintain a position of armed neutrality.

There can be no doubt that this expressed Mr. Bell's convictions. He was a Unionist and a Whig, but he was a Southern man, and had been reared a Democrat and a follower of Jefferson. He had opposed nullification, and now opposed secession; but no Southern statesman of his generation could entirely escape the influence of the pervasive sentiment of State's rights, and State loyalty. If he did not approve the doctrine of secession, he held the Southern, rather than the Northern view of the limitation of the powers of the Federal government over the States.

This letter having been written, events dictated the result. The South was threatened with invasion, and the leader of the Constitutional Union Party, with a heavy heart, but with honesty of purpose, became the advocate of the policy which he had so long opposed. He did not uphold secession, but believed that conditions justified revolution, although he was at the same time persuaded of the utter futility of the struggle on which the South had determined to enter. At no time did he believe that the South could successfully withstand the North. Nevertheless, actuated by a sense of duty, he took his stand with her.

Henceforth there was nothing in life for him. He steadfastly supported the Confederacy, but took no part in the war or in public affairs. After the war he remained in seclusion, and died at Cumberland Iron Works, September 18, 1869. At no time after 1861 did he attract or seek public attention.

Northern writers, notably Blaine and Greeley, have severely condemned him. Mr. Blaine says: "If Mr.

Bell had taken firm ground for the Union, the secession movement would have been to a very great extent paralyzed in the South." Comparing Bell with Everett, he says: "If Mr. Bell had stood beside him with equal courage and equal determination, Tennessee would never have seceded and the Rebellion would have been confined to the seven original States. * *

* A large share of the responsibility for the dangerous development of the Rebellion must therefore be attributed to John Bell and his half million Southern supporters of the old Whig party. At the critical moment they signally failed."

These censures imply a belief that Mr. Bell was insincere, whereas we affirm that he was wholly sincere, and that he sided finally with the South because he was convinced that it was right to do so, because the Federal government, in his judgment, was violating the rights of the States and subverting the Constitution. They attribute also to Bell and his fellow leaders of the Whigs, a far greater influence than they really possessed. Middle and West Tennessee, the slave-holding portions of the State, carried Tennessee out of the Union over the strenuous resistance of East Tennessee, which practically had no slaves. The Federal policy, in view of the conditions existing in the Spring of 1861, made the secession of every State with large slave-holding interests, inevitable. In ordinary times leaders may lead, but this was no ordinary time. There was an irresistible public sentiment in the presence of which the greatest leaders were powerless. Mr. Bell and his friends had done much when they defeated the first attempt to secede. Subsequent events carried the people far beyond the reach of personal or party

influences. Harris powerfully aided the impulse to secession, and Bell powerfully resisted it, but the one did not create the impulse and the other could not overcome it. Moreover, it cannot be too often, or too strongly asserted, that there came a time when Bell regarded it as his duty to yield to the impulse and to go with the South.

Of Mr. Bell personally, there can be but one opinion. Intellectually he had no superior in Tennessee, and probably at the zenith of his powers, during his last term in the Senate, was the peer of any public man in this country. He was essentially a statesman and not a politician. His powerful mind was quick to act, but his scholarly and philosophic habit led him to consider all sides of every question, and therefore, he was at times too deliberate, and was charged with indecision. Caution was one of his characteristics, and this, coupled with his fairness and his scorn of little things and of unworthy methods, unfitted him for active political leadership. He was a political philosopher, but not a good partisan leader. In later life he was not aggressive, though in his earlier struggles he was not wanting in this respect. It is said that his canvass against Grundy, in 1827, was not only one of the most brilliant, but also one of the most aggressive in our political annals.

With the increase of years and of experience came also increase of caution. In the debates of the Senate, he spoke late, but always with learning and with effect, covering and elucidating the entire subject. This habit did not arise from timidity. His was one of the few minds of the Senate that could not be satisfied with incomplete knowledge. It is interesting to com-

pare the two great rivals, Jackson and Bell. Both were honest men, both patriots, both great men. Of the two, Bell was the more intellectual, Jackson the stronger in will, the firmer in mind. Jackson's mind was one of the greatest in our history, but of comparatively narrow compass—not broadly cultivated, and capable of entertaining the strongest and most persistent prejudices; Bell's intellect was both acute and comprehensive; his mental vision large, his temperament liberal and judicial. Jackson had always one definite concrete purpose, to the accomplishment of which he devoted all his tremendous energy; Bell was a philosopher, finding delight in the study of abstract questions, and in all mental exercise. As a statesman, Bell, with clear and comprehensive vision, saw every aspect of every subject; Jackson saw only one thing—the object at which he aimed and toward which he made way over every obstacle. Bell was serene, contemplative, philosophic, a leader in everything to which he turned his attention, but owing his ascendancy to pure intellect and not to superior powers of action; Jackson was impetuous, strenuous, a man of impulse, and of unparalleled force.

These generalizations do not, of course, reach the exact truth. Jackson was endowed with a great intellect, and Bell, while not primarily a man of action, was not deficient in will. Jackson sometimes did not think enough, and therefore, not without justice, was often called narrow, prejudiced, violent; Bell thought carefully and conscientiously, and acted in moderation, and therefore was called timid. The word does him injustice. He was thoughtful, just, conscientious. He confronted and defeated Jackson in Tennessee;

in the Senate he disregarded the wishes of the State in his vote upon the repeal of the Missouri Compromise; he would not submit to instruction in the matter of the Lecompton Constitution; and as to the act for which he was most criticised, his accession to the Confederacy, we must believe that it was an act of conviction, or that he was guilty of insincerity and of recreancy, a conclusion which is denied by every other event of a long, useful and honorable life.

The most ardent admirer of Mr. Bell will hardly claim that his temperament and habits of mind were suited to times of revolution, but upon the other hand, only an unreasoning prejudice can deny that he was a sincere patriot, a wise, just and great statesman, and a good man.

John Marshall, as the name will indicate, was of Scotch-Irish descent. His father was William Marshall, who married Ann Bell, the aunt of John Bell. The subject of this sketch was born in Williamson County, Tennessee, September 5, 1803. He had the usual "old field" schooling, and later was under private teachers who introduced him to the classics. To this delightful branch of learning he seems to have been at first somewhat indifferent. Indeed, he is not reported to have been a diligent student of anything in his youth. In later life he became exceptionally versed in the classics. It is said that as a young man he preferred fishing to learning, but his natural abilities were so great, and his memory so retentive, that he accomplished his tasks with extraordinary ease and rapidity.

He determined early in life to be a lawyer, and in

1824 began to study for the profession under his kinsman, John Bell.

In every department of the law he was well equipped, efficient and successful. His Chancery pleadings are described as "models;" before a jury he had no superior, hardly an equal, while the Supreme Court held him in profound esteem and respect. It is to be doubted whether or not the State has ever produced his superior as a lawyer. The very cordial and appreciative estimate of him by Randall Ewing, in a paper before the Tennessee Bar Association, has induced the writer to make diligent inquiry concerning him, and all accounts are alike. He had the characteristics of the class represented in Tennessee by Haywood, Turley and Jarnagin. Physically he was strong and healthy; mentally he was richly endowed, capable of the highest and most difficult things, accomplishing much, but yet indolent—more indolent physically than mentally. Not negligent of duty, but content to do well without trying to do his best, except when aroused by some extraordinary cause. Of this class of men, Mr. Webster is the best representative in American history, and in Marshall and the great expounder of the Constitution, may be found many points of similarity. Both were strong men physically, massive in intellect, surpassing others without effort, yet sluggish mentally and physically, and needing strong excitement to arouse them.

Marshall's success as a lawyer was not delayed. Clients and reputation came to him quickly, and in a few years he rose to the first place among the lawyers of his circuit, and secured an enviable standing in the Supreme Court.

But while he grew steadily as a lawyer, and in general reputation, he displayed no ambition for office. A mind so great and so clear as his, was not to be attracted by the empty and troublesome distinctions of politics. He was content with being great inherently, and cared nothing for titles and honors. Mr. Ewing attributes his indifference to political honors, and all sorts of official distinction, to a want of ambition. Is it not better to attribute it to a clear sense of proportion and a perception of the real value of things? He loved his profession and his books and pictures, and music and friends. His means enabled him to gather probably the best law library, and the best general library, of his time, in the State; to surround himself with the works of art to which he was passionately devoted, and to enjoy his friends. Sought after, successful, honored in his profession, the first man in his community, a scholar, with the means of gratifying his tastes, rich in friends—what more could a rational man wish?

At two periods of his life only did he allow himself to have anything to do with public affairs. In 1837 and in 1839, he was State Senator from Williamson County, as a Whig. His career as a legislator was distinguished by earnest and largely successful efforts to abrogate imprisonment for debt in Tennessee. From 1839 to 1861 he remained in the profession and at home.

When the troubles preceding the war began, he felt that duty again called him to public affairs. He was an ardent Union man, and opposed with all the strength of his great nature, the proposition to hold a Constitutional Convention to consider the question of secession. To him was due almost entirely the fact

that his native county cast only forty votes in favor of the Convention.

Many of his friends had espoused the other side, and these witnessed his course with regret and dismay. Letters of appeal and of expostulation poured in upon him, but his purpose was not to be shaken. Others were for "armed neutrality." Marshall knew that there was no middle ground—that Tennessee must be for the Union or against it. And so he remained the outspoken advocate of the Union, the unshaken opponent of secession until Mr. Lincoln issued his call for volunteers. Then his training as a Southern man asserted itself, and reluctantly and sorrowfully he followed Tennessee out of the Union. There were thousands of good men in Tennessee, who loving the Union as he loved it, held the State entitled to their first allegiance.

Nevertheless, Marshall was deeply grieved, and came out of the struggle broken both physically and mentally. The disasters that befell the Confederate arms in 1862, and more especially in 1863, are said, in turn, to have affected him profoundly. Old age had come upon him, the future seemed without promise, and so he died, as some say, of grief. His death occurred October 3, 1863.

There is hardly a more interesting personality in the history of Tennessee. His remarkable physical appearance is described by Randall Ewing as follows: "Six feet, one and one-half inches in height, fleshy even to corpulence, a perfect digestion, and the muscles of an athlete, pain and sickness were strangers to him. He had more than any man I ever knew, that grand combination which our medical brethren have epitomized

as *sana mens in sano corpore*. In the course of twenty years' intimacy, I cannot remember that he ever complained of a corporal pain or illness. His head was massive and peculiar in shape. When face to face you would, at the first glance, pronounce him defective in frontal development, the forehead being low and narrow, but viewed in profile you would be astonished to find such an immense 'dome of thought' in the rear of this narrow portico. In fact the word portico well expresses the peculiarity of development; for it seemed to be rather an addendum than a part of the original design. In his dress he was careless, even to slovenliness. Many persons regarded this trait as a mere affectation; but Mr. Marshall was too great a man for affectation; that is the sin of small minds. * * * Mr. Marshall's carelessness of dress was a legitimate consequence of the want of order or system in small things. His office table was of immense size, and was always covered at least six inches in depth with papers, records, memoranda, etc., which he would permit no one to arrange or set in order."

He was a great reader and an enthusiastic collector of rare books and rare editions, not as a mere amateur, but as a genuine book lover. Like all men of active mind, especially in surroundings that do not abound in excitements, he was fond of amusements.

He was also a "great fisherman." The zeal with which he followed this most fascinating of pursuits is illustrated by an amusing anecdote.

On one occasion he was "going a-fishing," when in crossing a stream, he had the misfortune to drop his bucket of minnows into very deep water. Overcome by the calamity, he was returning homeward, when

he met a friend and fellow angler well supplied with minnows, who kindly offered to divide bait with him. This was well enough, but the obliging friend was bound for a different and distant point, and how should Marshall carry the minnows so generously offered? The problem was puzzling, but Marshall's resources were equal to the emergency. His new silk hat had every essential quality of a minnow bucket, and true disciple of Walton as he was, he hesitated at no sacrifice for art's sake. The new hat filled with water received the minnows; a "red bandanna" was fit covering for a sportsman's head, and a great lawyer and fisherman was once more happy.

The writer confesses to a decided partiality for this big, untidy, unambitious, simple and kind hearted man, and great lawyer. He had all the qualities that attract popular favor. His mental force impressed all with whom he came in contact; he had the gift of eloquence, and a genuine and natural kindness of heart placed him above the needs of the demagogue's arts. His very uncouthness of appearance and indifference to dress were calculated to attract the common people. His integrity was of sterling quality, and everybody trusted him. Nevertheless he lived a rational, useful and not wholly selfish life, instead of yielding to the seductions which allure so many into the selfish and unsatisfying occupation of office hunting.

Spencer Jarnagin was a native of Grainger County, Tennessee, and was born in 1792. He was well educated, and was a graduate of Greenville College in the class of 1813. He was admitted to the bar in 1817. His law preceptor was Hugh L. White. It seems that very early in his professional life, Jar-

nagin became connected with litigation growing out of the interpretation of Indian treaties and the cessions of lands made under them.

In 1833 he was elected to the State Senate from Knox and Anderson Counties. It was a time when the mind of the State was turned to public improvements, and the development of our natural resources, and Jarnagin contributed his influence to these ends.

The famous Foreman case arose as follows: The Legislature had passed an Act to extend the jurisdiction of the State in high felony cases over the territory of the Cherokee Nation. Under the provisions of this law Foreman was indicted in McMinn County for a murder committed in the Cherokee country. The Circuit Judge, Charles F. Keith, sustained a plea to the jurisdiction. The case was appealed by the State, and was heard by Judges Catron, Peck and Green. The State was represented by John H. Crozier, solicitor for the Fourth District, and by George S. Yerger, while Foreman was represented by Jarnagin.

This is perhaps the most learned of Tennessee cases. Catron's opinion is of incalculable value to the student of history, as well as to the lawyer. Jarnagin's speech before the Supreme Court has always been famous in East Tennessee as a masterpiece of logic, learning, eloquence and audacity; the audacity being displayed, according to tradition, in criticising the Court to its face.

It must be placed to Mr. Jarnagin's credit as a legislator, that he favored the establishment of an asylum for the insane of the State, and was the friend of popular education.

Until 1837 or 1838 he made his home at Knoxville,

but in one of these years he moved to Athens, being attracted to that place probably by the prospect of litigation under the Ocoee land law. His expectations were realized, and generally he was the lawyer of the Indians—presumably on account of his connection with the Foreman case. His kinsman, Milton P. Jarnagin, says that he largely instructed the Federal Courts in the law of Indian titles.

In 1840 he was a Harrison Elector for the State at large, and so much credit did he gain by this canvass, that he was conceded the Whig nomination for the Senatorship, but the policy of the immortal thirteen, headed by Andrew Johnson, prevented the election of a Senator in 1841, so that there was a vacancy for two years. In 1843, however, Jarnagin was elected to the Senate by the Whigs. In the Senate he took high rank as an orator and as a constitutional lawyer, and was justly regarded as one of the most brilliant and also as one of the ablest men in the Senate. His fine social qualities caused him to be much sought after by the society of the national capital. In 1846 came one of the periodical contests over the tariff. Mr. Clay favored protection. Jarnagin, though a Whig, favored a tariff for revenue only. Mr. Dallas, the Vice-President, was not in accord with President Polk and the Democratic party on the tariff question, Pennsylvania being strongly in favor of protection. As the vote progressed, Jarnagin saw that by voting for the pending bill he would create a tie. He therefore voted for the tariff of 1846, reducing the average duty from thirty-three per cent. to twenty-four per cent. He thus compelled Mr. Dallas to cast the deciding vote. The result was the disappointment of Mr. Clay,

and serious discontent with Jarnagin among the Tennessee Whigs.

He was not re-elected to the Senate. He submitted his name to the Legislature of Tennessee for a place upon the supreme bench, but was defeated, and Robert J. McKinney was elected. Upon his retirement from the Senate, Mr. Jarnagin, being entirely without means, changed his residence to Memphis, where he continued the practice of his profession with brilliant success.

In 1848 he made many speeches in favor of Taylor and Fillmore. In all his speeches, whether on the hustings or at the bar, he demonstrated the most extraordinary ability, and captivated every audience that heard him. Chancellor Kent is reported to have said that Jarnagin was one of the most intellectual men of our country, and in this high tribute all who knew him and had no prejudices against him, concurred.

In July, 1853, he was engaged in the preparation of an argument in an important case, and following a habit to which he had long been addicted, went to fish in a lake near Memphis, enjoying the sport and studying his case at the same time. It seems that he fasted during the day, and returning home in the evening, ate inordinately, thus producing a violent illness. According to his kinsman, Milton P. Jarnagin, the physician called in to attend him, apprehending that he had cholera, resorted to heroic treatment, with the result of killing him.

Mr. Jarnagin hardly has received justice at the hands of posterity. His somewhat erratic course in the Senate, which a charitable judgment may attribute to a real desire to do right and to serve his country, was

regarded by his party associates as an act of treachery, or at best, of weakness, and the impression got abroad that the infirmity thus displayed was a part of his character. But while his course in this respect may be open to criticism, it happened, as it generally does in such cases, that the criticism was much more sweeping and general than he deserved. He is regarded as a man of almost unlimited intellectual capacities, but lacking decision. His enemies, of course, said that he lacked principle, but his kinsman, writing of him, tells the truth when he declares that his weakness was not a want of principle, but a want of decision. If he had possessed more firmness of will and of mind—or taking the more charitable view of it, if he had been more obedient to party demands, he might have held a higher place in our history. It is unpleasant to concede that a man of such extraordinary intellectual power was deficient in will; and while upon the surface there are things to indicate that he suffered from this deficiency, it is always true that it is impossible for us to know and to give just value to the springs and motives of the conduct of another.

Alfred Osborne Pope Nicholson was born August 31, 1808, in a school house in Williamson County, Tennessee. His father and mother had come to Tennessee from North Carolina, and occupied the school building while their own house was being constructed. The father, O. P. Nicholson, was a carpenter, millwright and surveyor, and built one of the first houses, if not the first, in the town of Columbia.

A school teacher at Columbia in the boyhood of Judge Nicholson, was Squire Black, grandfather of Henry Watterson, to whose tutelage the boy was duly

committed. Chapel Hill, North Carolina, was, even in the first quarter of the century, a school of note, and young Nicholson matriculated there in the Fall of 1823, and graduated in 1827.

In 1828 he attended medical lectures at Philadelphia, following the request of his mother, who wished him to be a physician. His attendance, however, was limited to one year, at the end of which he became the editor of the *Columbia, Tennessee, Mercury*. He was married in 1829, and about the same time began to study law. In the same year he was a candidate for the Legislature and was defeated, but at the next election was successful by a large majority.

At this time were beginning to be heard the first mutterings of opposition to General Jackson. Nicholson was an ardent advocate of Jackson, and a close friend of James K. Polk. John Bell was just entering public life, and was antagonistic to Polk, and was thus brought into collision and debate with Nicholson in the Legislature. The debates were animated, affording the young statesmen excellent opportunities to prove their abilities, and from them Nicholson and Bell acquired much prominence. Nicholson was repeatedly returned to the Legislature, and in 1840 entered upon a larger political field, as a candidate for Elector for the State. On the death of Felix Grundy, in 1840, Governor Polk appointed him to fill the vacancy in the United States Senate. When the Legislature met, he was nominated by the Democratic caucus, but the "immortal thirteen" prevented an election.

For some years Judge Nicholson now gave his time exclusively to the law. In collaboration with Judge

Caruthers, he had already prepared the Digest of Tennessee Statutes known to the profession as "Caruthers and Nicholson."

The political warfare between Polk and the anti-Jackson forces, under the leadership of Bell, meanwhile was flagrant, and had much to do with Polk's nomination to the Presidency in 1844. The great issue of 1844 was Texas. New England and the great Middle States generally opposed annexation, and vigorously demanded tariff protection. The support of Pennsylvania was secured to Polk mainly by a letter bearing his name, and advocating a tariff primarily for revenue, and incidentally for protection. It was asserted at the time, with probable truth, that this letter was written by Nicholson.

In 1844, at the urgent solicitation of Mr. Polk, Nicholson moved to Nashville to assume the editorship of the Nashville Union. When Polk was received at Nashville on his journey to Washington to be inaugurated, Nicholson made the speech of welcome, in which he said: "The American people have selected you President of the United States to carry out the policy of the Democratic party." This utterance, which was much criticised, was premeditated, because the Democrats of Nashville regarded the President as not sufficiently positive and aggressive. Polk dined that day with Andrew Jackson, who repeated the injunction. A place in the Cabinet was now offered Nicholson, but the state of his private affairs compelled him to decline it, and he continued to devote himself assiduously to the law at Nashville, carrying on his newspaper work at the same time. In 1850 Governor Trousdale appointed him Chancellor of the Maury

County Division, but he resigned at the end of the year. For a time he was President of the State Bank, but resigned in 1852 and returned to Columbia. In that year he was a Pierce Elector for the State. He had served in the Senate with Mr. Pierce and a cordial attachment had resulted. When Pierce became President he tendered Nicholson the office of Postmaster-General, and afterwards the Spanish Mission, but both were declined, as he preferred to go to Washington as the editor of the Union, the Democratic organ, founded during Polk's administration.

In 1857 he was elected to the United States Senate. He was a believer in the right of secession, but did not think, in 1860, that occasion was presented for exercising that right. However, when Tennessee took her place with the South, he was loyal to the State, and was a staunch supporter of the Confederacy to the end. After the Federal occupation of Middle Tennessee he refused to take the oath of allegiance, and was imprisoned at Columbia, and then, by order of Andrew Johnson, sent beyond the lines. He returned with Hood, became ill, and was unable to travel when the Confederate army retired, and was arrested and confined in the penitentiary as a hostage for some Union men alleged to have been carried off by Forrest. The real cause of his arrest seems to have been the request of Andrew Johnson. He was retained in prison until the surgeon in charge declared that further confinement would kill him. Being released he went home to find that his only possessions were his real estate and one cow. Soon afterwards he received an unsolicited pardon from President Johnson, and a request to come to Washington. He complied with the request, and was

again in Washington in consultation with the President during his controversies with Congress.

In 1870 he was elected to the Constitutional Convention of Tennessee, and was by far the most influential, as well as one of the most conservative members of that body of able men. In the same year he was elected to the supreme bench and was made Chief Justice. In that position he exerted a great influence upon the decisions and the general policy of the Court. He died in 1876.

His career was one of much usefulness as well as of exceptional success and prominence. He was a man of great ability and of extraordinary purity of character. If he had been more aggressive and self-assertive he might have held office more frequently, but his reputation could not have been better. He was totally wanting in the arts of the politicians. He refused to "electioneer" for himself, and his diffidence amounted almost to a misfortune. Few men in the history of the State are more to be esteemed for ability or valuable public service. As a Judge he was an indefatigable worker, as indeed he was in everything to which he put his hand. He was a great lawyer, by virtue of a great intellect rather than by extraordinary learning. He was a well read and studious lawyer, but his chief excellencies as a Judge were a natural sense of justice and a powerful mind. He was Chief Justice in fact as well as in name, and was peculiarly adapted to the difficult task of guiding the Court in adjusting affairs under the new Constitution. When he died his associates frankly and cordially admitted their indebtedness to him.

Gustavus A. Henry, known to the last generation

of Tennesseans as the "Eagle Orator," was born in Scott County, Kentucky, October 8, 1804. When he was fourteen years of age his parents removed to Christian County, Kentucky. He was given a thorough classical education at Transylvania University. One of his schoolmates was Jefferson Davis, and between the two a cordial friendship was established, and lasted throughout their lives. In 1831, and again in 1833, Mr. Henry represented Christian County in the Legislature of Kentucky.

In 1833 he married Miss Marion McClure, of Clarksville, Tennessee, and removed to that city, where he made his home for the remainder of his life. It is suggested that by this step he sacrificed a brilliant political career in Kentucky. He was a Whig, and at that time Tennessee was one of the strongest Democratic States in the Union.

In 1840 he was a Whig candidate for Elector in the Clarksville district, and was an unsuccessful candidate for Congress against Cave Johnson in 1842. In 1844, 1848 and 1852 he was a Whig candidate for Elector for the State at large. In 1851-1852 he was in the Legislature, and in 1853 was the unsuccessful Whig candidate for Governor against Andrew Johnson.

He was thus fated to be the unsuccessful leader of his party in many hard fought battles, but he entered into these contests with as much spirit as if he had been assured of success. He was held in great esteem and respect by the people of the State of all parties, and was regarded as the equal of any public speaker in Tennessee in the decade preceding the war, except William T. Haskell.

When Tennessee seceded the old lines between the Whig and the Democratic parties were obliterated, and Mr. Henry was elected Senator from Tennessee in the Congress of the Confederate States. In that body he was highly esteemed as a debater and as a clear-headed man of business. He was one of the principal supporters of the administration of his old friend, the President.

As a lawyer he took high rank as an advocate, but not otherwise. It is not characteristic of men of brilliant minds and extraordinary gifts of speech, to be industrious workers. He was a man of strong religious convictions, and became a member of the Protestant Episcopal church in 1854. From that time he was always prominent in the affairs of his own parish, and of the Diocese of Tennessee. His public career ended with his service in the Confederate Senate. He is best remembered in Tennessee as a great political speaker.

It is related in the book entitled "Picturesque Clarksville," in regard to Mr. Henry, that after the fall of Vicksburg, President Davis, fearing the results of the public depression, requested the Senator from Tennessee "to make a speech to the people from his high standpoint in the Confederate Congress." The writer continues: "This speech was delivered, so powerful, so full of fervid eloquence, that at the conclusion, the whole Senate, and Cabinet and President, who had honored the occasion with their presence, were found in a compact group around the orator, having been drawn, as they said, by an irresistible power from their seats in the Senate chamber. Of this speech, Mr. Davis said, 'its reasoning was as powerful

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as the thundering cataract, and its eloquence as inspiring as the notes of the bugle sounding the charge, when the host is about to join in the battle.' "

There is something almost pathetic in Mr. Henry's history as a public man. He was ambitious and was conscious of possessing the ability to distinguish himself in public life, but until his election to the Confederate Senate, he was continuously defeated. It is true he acquired a great reputation as an orator, but the man of ambition craves place and power. These are the only substantial and satisfying rewards, and he did not attain them. The Confederate Senate was not a place to win renown. The position was highly honorable, but in it no great reputations were made. The tremendous events of the war diverted attention from it, and its functions were limited to legislation in support of a policy which indisputably was in the main dictated by the President. There were great men in the Senate, but they had little or no opportunity to display or to utilize their abilities, so that to Mr. Henry never came the opportunities for which he longed. Nevertheless his life was by no means a failure; he left an honorable name and fame, and was one of the best and purest men in the State's history.

Pryor Lea was born near the close of the last century, in Tennessee. At the age of fifteen, he was elected clerk of the lower branch of the Legislature. He was educated principally at Greeneville College, under Dr. Charles Coffin, and was attending that institution in 1813, when there was a call for volunteers for the Creek war. He responded to the call and served throughout the war with credit. Resuming his studies after the war, he completed his course, and

entered the office of Hugh Lawson White as a law student. His relations with Judge White were always the most cordial. At the bar he rose rapidly, and in 1827 was elected to Congress from the Knoxville District, and served until 1831. In 1836 he moved to Mississippi, where he seems to have worked excessively in the profession. This overwork, coupled with severe domestic afflictions, impaired his health, and in 1846 he sought recuperation in Western Texas. Seeking a permanent location, he was attracted to Aransas Bay, believing that as the population of the State increased an important commercial city must be established in that vicinity. With two associates, he began work at Lamar, but differences of opinion caused the dissolution of the partnership, and Lea sought individually to found a city. This was about 1852. The State of Texas gave him a favorable charter, and he pursued his enterprise with zeal and confidence, but did not live to see it succeed. He was a strong State's Rights Democrat, and though an ardent admirer of General Jackson, repudiated the Nullification proclamation. In 1861 he was a member of the Secession Convention of Texas, and wrote the address which it issued to the people. After the war he returned to the law, and continued his efforts to build a city. He ranked high as a lawyer, and was widely known and esteemed in Texas.

CHAPTER VIII.

Wm. T. Haskell—Balle Peyton—Thomas Barry—
The Anderson Brothers—The Yergers—Robert Hatton
Ebenezer Alexander.

The disposition to estimate men positively is dangerous, but difficult to resist. Nothing is more common than to hear it said of a distinguished man that he was the greatest, the most eloquent, the wisest. In the preparation of these papers material has been received pronouncing confidently that this or that man was the greatest in our State history, until it is found that if these materials be trustworthy, we have had not less than fifteen greatest men. The palm of eloquence also has been finally bestowed upon eight or ten different orators. In this last respect, however, a positive estimate may be made without much danger. So far as the writer's observation extends, it is the well nigh universal opinion that the most eloquent of all our public speakers was **William T. Haskell**. His father, Joshua Haskell, came to Tennessee from Rhode Island and settled at Murfreesboro, having served previously in the Creek war. He was a lawyer, and in 1821 was appointed Judge of the newly-created Eighth Circuit, and removed to Jackson, in Madison County, so as to reside within his circuit. In 1829 he was impeached, but was acquitted for want of a constitutional majority against

him, the vote being a tie. There seems to be no room to doubt that Judge Haskell's judicial habits were, to say the least, somewhat informal. Nevertheless he was very popular and held the office until 1836, serving in all fifteen years.

William T. Haskell was born at Murfreesboro, July 21, 1818, and was educated by private tutors, and in the schools at Jackson until he was sufficiently advanced to enter college. Sometime prior to 1835 he entered the University of Nashville, but did not complete his course there. Probably the University of Nashville never had a more negligent student.

He was a poet, an orator, a converser, a dreamer. By reason of extraordinary natural gifts, he acquired certain things without effort. These were the things to which he was naturally inclined. The things that required effort went unlearned. The mathematical faculty rarely goes with the poetic or oratoric temperament, and seems to have been almost entirely wanting in his intellectual make-up. Leaving college without a degree, he enlisted for the Seminole war in 1836, and served with credit. There was excitement in war, and he incessantly craved excitement. Moreover he had many soldierly gifts.

Returning home after the war he became a lawyer, and as early as 1840 drifted into politics and made a canvass for the Whig party, and in the same year was elected to the Legislature from Madison County.

In 1844 he canvassed the State for Henry Clay, making some of the marvelous speeches upon which his fame rests.

In 1846 he enlisted for the Mexican war, and was elected Colonel of the Second Tennessee Regiment of

Volunteer Infantry. He was a gallant soldier and a capable leader, and came from this war with a reputation second, among the Tennesseans, only to that of the splendid leader of the "Bloody First," William B. Campbell.

Probably his best political speeches were made in the campaign of 1856, and the greatest of these was delivered at Knoxville in the first week of September of that year. This week witnessed one of the last demonstrations of vitality in the Whig party. The decadence of the party had become painfully apparent to its leaders in Tennessee, and this meeting was designed as a great party revival in a section which had always been one of its strongholds.

Three days were given to the meeting. From all parts of East Tennessee, and from many counties of Middle Tennessee, the loyal Whigs were gathered in force. Orators for the occasion had been brought from other parts of Tennessee and from other States. Such champions of Americanism as Maynard and Brownlow addressed the people on the first days; Thursday was reserved for Haskell. On that day a procession formed in the city, marched across the valley on the East and ascended to the summit of Methodist Hill which overlooks the Tennessee far to the East and to the West, and brings into view the blue lines of the Cumberland Mountains on the North and of the Smokies on the South. On this attractive and inspiring spot a speaker's stand had been erected. Fully twenty thousand people had gathered. A multitude of flags enlivened the scene, and the shouts of enthusiasm drowned the noise of the cannon that thun-

dered salutation and welcome to the great orator. He had traveled far, was fatigued by the journey and weak from disease, and many feared that the ordeal would be too severe for his waning physical powers. But the immense throng, with its boundless and contagious enthusiasm, aroused the spirit of the orator, and genius triumphed over physical weakness. His first words were: "All hail, East Tennessee." For four hours and more, he spoke, and not one auditor withdrew. As he progressed his enthusiasm steadily increased. No words were spoken save those that were uttered by his wonderful voice, which could be heard distinctly to the uttermost limits of the crowd, but ever and anon arose a mighty uproar of applause. The day was warm, and as the speaker felt the heat, he cast aside necktie, collar, coat and vest, and thus relieved of every incumbering garment, spoke as his auditors had never heard man speak before.

He had every grace and gift of the orator, an unlimited flow of purest and strongest words, the finest fancy, the richest imagination, the most pleasing and effective action, a voice of unequalled beauty and compass. A generous enthusiasm and patriotism fired his heart, and doubtless tradition speaks the truth when it declares that this was the grandest oration ever heard on the soil of Tennessee, the culminating effort of a splendid genius, an outpouring of captivating, resistless eloquence.

Haskell was by nature a great actor, and his speeches were always essentially dramatic in quality and in effect. In one of the passages of this great speech—one often referred to and quoted—he summoned the spirits of the mighty leaders of his party

who had passed away. Invoking first the shades of Webster and Clay, he turned toward the home of Hugh Lawson White, which stood near by, and called up the ghost of the "American Cato." He exclaimed that the spirit of White was there before him, and shrank from its presence. As he drew back, trembling before the picture that his imagination had conceived, the faces of men blanched, and women shrieked and fainted from terror. Seeing the excessive effect of his magnificent acting, he waived the spirit away and resumed his discourse.

This great speech brought to Haskell, already famous, a reputation such as no other public speaker in Tennessee ever enjoyed, and the reputation was deserved. Genius and eloquence are words much abused, but to Haskell both may be applied in truth. He was a man of genius as truly as was Webster or Chatham, or any other of the world's great orators. Like Fox and Sheridan, and even Webster, he had this divine gift linked with many weaknesses. His life was irregular and ill-ordered. From the transcendent heights to which he rose in the flights of his eloquence, he fell very low in periods of relaxation and idleness.

He reminds one of another gifted American, Edgar Allen Poe, and like Poe, he had the gift of song. At least one of his poems is not unworthy of the genius of any poet our country has produced. It was written under the saddest circumstances. It is well known in Tennessee, and will be recalled by the opening couplet:

"I'm adrift on life's ocean and wildly I sweep,
Aimless and helmless its fathomless deep."

Haskell shared the fate of many other men of genius who have been called to deal with practical affairs. His nature was too sensitive, his nerves too highly strung for rough contact with men, for the struggles that they incessantly make for place and power.

Once, in 1847, he was elected to Congress, but found the service uncongenial and refused a re-election. Natures like his can find no contentment in the world. In moments of exaltation they rise far above the level of ordinary men and affairs, but only to sink into discontent and despondency. This is one of the penalties of genius, especially of the genius of the poet and the orator.

The excessive nervous strains to which Haskell subjected himself in every set speech that he made, combined with the irregularities of his life, finally subverted his nervous system, and the people of Tennessee beheld with universal regret the sad spectacle of this wonderful man paying the price of his marvelous gifts and triumphs, by confinement in a mad house. It was in an interval of restored reason that he wrote the beautiful poem quoted from above.

His mind never recovered its balance. He died at Hopkinsville, Kentucky, March 12, 1859.

His life was the most brilliant and yet the saddest in the history of our State, exhibiting a resplendent genius hampered by a fatal infirmity of will. No censure of him ever passes the lips of a Tennessean, but every word is praise, and every sentiment sympathy.

No Tennessean has a more honorable record than **Balie Peyton.**

He was born in Sumner County, Tennessee, Novem-

ber 26, 1803, and died on his farm near Gallatin, in that county, August 18, 1878.

His education appears to have been acquired entirely in the schools of the neighborhood. That it was not extensive is probable, but it is certain that he was, in after life, justly regarded as a man of culture.

In his time the intellect and the ambition of the South turned to politics, and to the law, as the way that led to political distinction. Peyton secured a license in 1824, and opened an office in Gallatin. After nine years of practice he was, in 1833, elected to Congress, being at that time, and for years afterwards, a warm supporter of General Jackson. This election at the age of thirty years, proves that he possessed in an unusual degree the qualities that made men successful in those days. In 1835 he was re-elected, but in 1837 declined to be a candidate, because he wished to remove to New Orleans.

As a member of Congress he attracted the most favorable attention. He seems to have participated in the great debates of the time, and to have distinguished himself especially by a speech in defense of Jackson's removal of the bank deposits.

In 1837 he took up his residence at New Orleans and entered upon the practice of law there.

In that year he took charge of the famous suit of *Myra Clark Gaines vs. New Orleans*. This case grew to a ripe and rare age, furnishing occupation and, presumably, remuneration, to several generations of lawyers, and terminating in a recovery of nearly \$900,000.

Until about 1834 Mr. Peyton had been in thorough accord with General Jackson on public questions, but

he was unfriendly to Van Buren, and supported Hugh L. White, and therefore a coolness arose between him and the Autocrat of the Hermitage. They were not reconciled till many years afterwards, when overtures were made by General Jackson in a manner highly honorable to himself.

The political position assumed in opposition to Van Buren was confirmed in 1840, when Peyton stumped the States of Indiana, Ohio, Kentucky and Tennessee in favor of General Harrison. After Harrison's election it is said that Peyton was asked to select an office to which he wished to be appointed. Whether this statement be accurate or not, he was appointed United States District Attorney at New Orleans. After President Harrison's death, he was offered the Secretaryship of War in Tyler's Cabinet, but preferred to retain the office of District Attorney. He remained at New Orleans until the outbreak of the Mexican war, when he raised a regiment of twelve hundred men, consisting of ten Louisiana companies and two Alabama companies. Unfortunately, however, the men were enlisted for six months only, and after they reached Mexico, President Polk recalled all troops that had enlisted for less than a year. The men returned home, but the officers seem to have connected themselves with the army in different capacities. Colonel Peyton became Chief of General Worth's staff, and in that capacity was present at Monterey, and received in person the surrender of General Ampudia. General Worth's report compliments Colonel Peyton in cordial terms.

In the campaign of 1848 Peyton canvassed the State of Louisiana for Taylor and Fillmore. As a reward

for his services he was appointed Minister to Chili by Taylor, and held the office for the full term. When Franklin Pierce became President he desired Mr. Peyton to retain his place in Chili. He declined the re-appointment, however, and went to San Francisco, where he practiced law for five years.

In 1859 he returned to Tennessee and resumed the practice of law at Gallatin. In the same year he was at Philadelphia assisting in organizing the Union Party. In 1860 he was a successful candidate on the Bell and Everett ticket for Elector for the State at large. No one in Tennessee did more to secure for Mr. Bell the gratification of carrying his native State.

As the secession sentiment grew in Tennessee, many of the staunchest friends of the Union yielded. Even Mr. Bell could not withstand the results of early training, and conceived it to be his duty to follow the State out of the Union. Peyton, however, remained firm. A speech made by him at Gallatin in 1861, in opposition to secession, was admired and praised even by those who rejected its sentiments.

When the war came on he took no part in it, but did his utmost to mitigate the sufferings of his neighbors of both parties. It seems that his age and high character saved him from molestation. He is cordially and gratefully remembered by the people of Sumner County for his good and unselfish works in that distressful time. His last public service was as State Senator from Sumner and Smith Counties in the Legislature of 1869-1870.

Mr. Peyton was a man of fine personal appearance and address, and possessed not a little personal magnetism. As a lawyer he is said to have been diligent

and painstaking, and to have prepared his cases with care and skill, and to have presented them with force.

In Tennessee he was best known as a political debater, and in that capacity he was among the foremost men of the State. No man, not even in Kentucky or Middle Tennessee, surpassed Balie Peyton in the love of fine horses. This passion was a bond of congeniality between him and General Jackson for many years, and by reason of it, he and Judge Guild were long inseparable.

Mr. Peyton had the temperament and the gifts of an orator. He was physically strong, with good lungs and voice. He was also fluent and correct in speech, forcible in delivery, and rich in fancy, imagination and humor.

That he was both determined and conscientious appears from his attitude toward secession. His whole life showed a fearless devotion to principle. He did not impress himself upon the history of Tennessee so much as some of his contemporaries, who do not appear to have been superior to him in intellect, courage or force of character. No doubt this was on account of his long absence from the State. His frequent changes of domicile made it impossible for him to have anywhere the influence which his abilities and character would otherwise have commanded.

Judge **Thomas Barry** was born in Sumner County, Tennessee, July 2, 1807, and died May 23, 1891. His lineage was a very honorable one and the family record is full of interest. He was the eldest son of Dr. Redmond Barry, and his wife, Jane Alexander, who was known to her contemporaries as "the Cumberland beauty" on account of her exceeding

personal attractiveness. The Alexanders were an old North Carolina family, thoroughly patriotic, and distinguished in the Revolution. The father of the beautiful Mrs. Barry was Captain William Alexander, of the Continental army.

The President of the Convention that promulgated the Mecklenburg Declaration of Independence was Abraham Alexander, and the Secretary, John McKnitt Alexander. Two others of the same name, and presumably of the same family, signed the Declaration.

Dr. Redmond Barry was a native of Ireland, and a thoroughly educated physician. It is related that through the influence of Charles James Fox he was appointed Surgeon of a British man-of-war, but on account of sympathy for the American Colonies, whose troubles with the mother country were then beginning, he resigned and came to North Carolina, where, by the successful practice of his profession, he acquired a fortune. Having done this, he gave up medicine, came to Tennessee and studied law, and engaged in his new profession with credit as the contemporary of Grundy and Overton.

Mr. Grundy is reported to have said of him that Dr. Barry was the only man he had ever known who at the age of forty had thoroughly mastered the professions of medicine and law.

Judge Barry, the subject of this sketch, fulfilled in his life the obligations imposed by a parentage so honorable. He was carefully and liberally educated, and throughout his life found pleasure in the study of mathematics and the languages.

He was attracted while a young man to Andrew Jackson, for whom, in 1828, he cast his first vote.

Politically and personally his relations with Jackson were close and cordial. Barry's love of fine horses is well known, and the writer, though a native of alien East Tennessee, verily believes that the normal habitat of the high-bred horse is not the vaunted blue-grass region of Kentucky, but the smiling savannas of Middle Tennessee, where General Jackson, and Judge Barry, and Balie Peyton and Jo. Guild lived, and where they loved and praised, and often sped their noble steeds.

Judge Barry was happily circumstanced, so that he could be a good lawyer without ceasing to be a country gentleman. Like Peyton and Guild, he loved the law without ceasing to love his horses. It was a glorious life that these old-time gentlemen lived. In this healthful mingling of professional work with outdoor life, Judge Barry passed his young manhood, associated with Jackson and others of the strong men who made Tennessee great in those days. He was the staunchest of Democrats, and early in the "fifties" was the nominee of his party for Congress against Charles Ready, but was unable to overcome the large Whig majority in the district.

The troubles that preceded the civil war distressed him greatly. Like many other Southern men who loved the Union, he was unable to free himself entirely from the influence of the State's rights doctrine which prevailed so widely in the South. But his love of the Union was invincible.

After the Federal occupation of Middle Tennessee he gave his time largely to the work of ameliorating the condition of his friends and neighbors who had espoused the Southern cause, and by his course in this

respect, won their lasting good will and gratitude. In this he was not actuated by considerations of policy, but by the impulses of a kind and generous heart.

In the Autumn of 1865 Governor Brownlow appointed him Chancellor of the Third Chancery Division, and he filled the office with dignity, fairness and ability until 1869.

He was thoroughly competent for its duties, and his gracious manners and strict impartiality commanded the good will and confidence of the bar and of the people. One most admirable trait constantly manifest in his conduct should be mentioned. He was the unrelenting enemy of all uncleanness of life and conversation.

He lived to the ripe age of eighty-five years, respected and esteemed by all who knew him.

In the month of October, 1801, came to live in a beautiful section of Knox County, now called Grassy Valley, a family of Scotch-Irish immigrants, consisting of the parents, five sons and two daughters. They came from Rockbridge County, in the valley of Virginia, where their ancestors had settled three-quarters of a century before.

The head of the family was William Anderson, and to this day many of his descendants possess portions of the land that he purchased in 1801.

William Anderson was of pure Covenanter stock, a Presbyterian of the strictest sect, sincerely God-fearing and devout. His ancestors were in the great lowlander migration to Ulster, and his grandfather and grandmother saw the famous siege of Derry.

The sons of William Anderson were not all devout men, but all possessed extraordinary abilities, and

probably no family in the State can point to so many strong and prominent men of any one generation. The first and eldest of these was not a lawyer, but three others were lawyers and Judges.

Isaac Anderson, the first born, was a Presbyterian preacher, and for many years exerted an unsurpassed influence for good in East Tennessee.

The next of the four was **William E. Anderson** who was born in Rockbridge County, Virginia, at a date not known, and died at Vicksburg, Mississippi, in October, 1841.

The date of his admission to the bar is uncertain, but in 1817 he was of sufficient rank in the profession to be elected Solicitor-General for the Fourth District. He served in this office from 1818 to 1824. In 1824 he was a Jackson Elector for the Third District.

In 1827 the Legislature created separate Chancery Courts, and established two Divisions. Anderson having moved to Nashville, probably in 1825, was elected the first Chancellor for West Tennessee, which included most of Middle Tennessee, and served from 1827 to 1830.

In 1829 he was an unsuccessful candidate against Felix Grundy and others for the United States Senatorship made vacant by the resignation of John H. Eaton.

In 1833 he was elected to the lower branch of the Legislature from Davidson County, and four years later was in the State Senate from the same county. In the controversy between Hugh L. White and Andrew Jackson, he espoused the cause of White, and was an Elector from the Eighth District.

Not long after this he moved to Mississippi, hoping, no doubt, to win higher honors in a new country.

The following description of him is taken from "Old Times in Tennessee:" "Judge Anderson was six feet eight inches high, of fine physique and commanding personnel, a man of great acuteness and depth of intellect. He had but few equals in the State as a lawyer and Chancellor. Was for years a member of the firm of Rucks, Anderson & Grundy, of Nashville, which did a sweeping and profitable practice. Chancellor Anderson was lured by the flush times in Mississippi, and moved to Vicksburg, where he died after establishing a great reputation as a lawyer. He was a man of great humor and noted for his sociability and fun. He was no office lawyer, and was never known to study, but when called into a case he was always equal to the occasion. He was a wheel horse in any case in which he appeared. All yielded to him the front rank either to repel the attack or head the column in the charge."

All accounts agree in making him a man of the most extraordinary gifts. Without difficulty and very quickly he became eminent at the bar in East Tennessee, at Nashville, and in Mississippi. It may be surmised that as Chancellor he was not happily placed, but no censures of his judicial conduct have been found. There can be no doubt that his habits were irregular at times to the extent of dissipation. He was one of those men who, being rarely and richly endowed by nature, excel others at will, without effort, and therefore are impatient of systematic work, and make lavish use of their fine resources. It was known that he would not prepare his cases, being utterly intolerant

of the drudgery of the profession, but in the courtroom, and more especially before a jury, he was the most formidable of antagonists. When the fury of battle was not upon him he was indolent and prone to seek enjoyment in conviviality.

It is clear that Anderson was a man of surpassing ability, but of a fatal indolence, capable of doing much but content to do comparatively little. It must be added, however, that he was an amiable and kindly man, and that his integrity was above suspicion.

A third brother, **Samuel Anderson**, exhibited like qualities of mind, and won an honorable place among the lawyers and Judges of the State. He, too, was born before the family came to Tennessee. His opportunities of education were limited, as he was compelled to work upon the farm until he was twenty-one years of age.

He was licensed to practice law in the Winter of 1810. For about a year he practiced at Knoxville, and then went to Murfreesboro, probably late in 1811, where he resided until his death. In 1817, and again in 1819, he represented Rutherford County in the lower house of the Legislature. In 1835 he was appointed Circuit Judge for the Fifth Circuit, to fill the vacancy caused by the resignation of James C. Mitchell. He was elected to the position by the Legislature in the Autumn of the same year, and was again elected in 1843, and served continuously from 1835 to 1851.

After his retirement from the bench in 1851, he devoted himself to the management of his farm near Murfreesboro.

Of **Robert M. Anderson**, the third of the brothers

who became a Judge, but little is recorded. He was born in Rockbridge County, Virginia, in 1793, and died in Jefferson County, Tennessee, October 20, 1855. The official records of the State show that when the Twelfth Judicial Circuit was established in 1837, he was appointed Judge of it, and held the office from that date until 1854.

Judge Robert Anderson lived at New Market, in East Tennessee. Physically and intellectually he is said to have resembled his brother William. He was a competent and satisfactory Judge, and was much esteemed in East Tennessee as a man of talent and character. He was somewhat convivial in his habits, but was always faithful and efficient in the discharge of his judicial duties.

The record of these four brothers is certainly a remarkable one. Isaac was the foremost educator and the leader of the Presbyterian Church in East Tennessee; William was Chancellor, a great orator, and a man of sufficient standing to contest the United States Senatorship with Felix Grundy; Samuel was Circuit Judge in Middle Tennessee for fifteen years, and Robert was Circuit Judge in East Tennessee for seventeen years. For fourteen years Robert and Samuel were contemporaneously upon the bench.

Andrew McCampbell was of a Scotch-Irish family which still has many representatives in East Tennessee, especially in Knox and Jefferson Counties. He was born in Rockbridge County, Virginia, May 8, 1797. While he was an infant his father died, and soon afterwards the family moved to Knox County, in East Tennessee, settling about five miles East of Knoxville. The mother's maiden name was Anderson, and she

was the aunt of Samuel, Robert, William E. and Isaac Anderson.

Andrew McCampbell read law under the direction of his brother, John A. McCampbell, who was a prominent member of the Knoxville bar. Andrew did not practice at Knoxville, however, but in 1819 removed to Jackson, Tennessee, where he remained for about one year, and then went to Paris, Tennessee.

In 1839 he was elected Chancellor for West Tennessee, in which capacity he served till 1847, and then voluntarily retired. He resumed the practice of law and continued in it until his death, which occurred January 4, 1884.

In a short sketch of Judge McCampbell, printed at the time of his death by Governor Porter, it is said that twice in his lifetime he declined appointment as Judge of the Supreme Court.

Governor Porter further says of him: "He was *facile princeps* with his associates at the bar, and enjoyed the respect and confidence of the public. His career as a lawyer and Judge ran through sixty years' residence in one community, and every year was marked by the strictest professional integrity and by constant efforts to uphold the dignity and character of the bar. His family will have the satisfaction of knowing that his efforts in this direction were valuable beyond measure.

"Judge McCampbell was learned in all the branches of the law, and was a classical and critical scholar and one of the most delightful of companions. He was full of pleasant reminiscence, but kept apace with current events, and was up in the law. His kindness to young lawyers, his perfect fairness and frankness to adver-

saries, are lessons long to be remembered. The writer of this notice was often his junior in litigations of importance, and was always his friend, and records his profound sense of gratitude for the benefits derived from his learning, as well as from his lofty bearing as a lawyer."

In politics Judge McCampbell was a State's right Democrat, but was a Union man, that is to say, he was in favor of asserting the rights of the South within the Union. Therefore he opposed secession, but when the State went out of the Union he was loyal to her, fully sympathized with the Southern cause and rendered it material aid. He had three sons in the Confederate army.

Judge McCampbell seems to have had many peculiarities. One of these was that he would not prosecute a man charged with a criminal offense. The very remarkable statement is received from a trustworthy source, that he would never take the risk of riding on a railway train, and died without having enjoyed the pains and pleasures of railway travel. His opinions as Chancellor were very short, and he uniformly declined to state his reasons for his conclusions. Being asked why this was the case, he replied that "A court might render a righteous judgment and give a fool reason for it."

It is probable that no man of his time was more esteemed than Judge McCampbell by the people of West Tennessee, and it is certain that his abilities, and his virtues as a man, as a lawyer and as a Judge, fully entitled him to this esteem.

The office of Attorney-General and Reporter was created in Tennessee in the year 1831, and the first in-

cumbent was **George S. Yerger**, who served from 1831 till October, 1838.

The Yergers were Dutch. They came to Tennessee at an early day, and were living at Lebanon, in Wilson County, before the end of the last century. It is said in Foote's "Bench and Bar of the Southwest," that the Yerger mansion was, at the time when Senator Foote wrote, still standing at Lebanon, and that in it had been born eight worthy men of that name, all of whom but one, became lawyers.

Not far from the year 1840, the family moved to Mississippi. The precise date when George S. Yerger left Tennessee cannot be stated, but it was soon after he retired from the office of Attorney-General. He was at that time a lawyer of much note, and his removal was a great loss to the State. From Foote's account of him it appears that he was of a clear and discriminating mind, and unusually retentive memory, but was not a methodical student. He is said to have preferred commercial and equity practice, although he was an effective advocate.

As Reporter for the State he edited ten volumes of decisions, which continue to be constantly used by the profession and the courts. He was Attorney-General when the celebrated Foreman case was tried in the Supreme Court. It will be remembered that Foreman had murdered the Cherokee Chief, Jack Walker, in the territory of the Cherokee Nation. The case excited much interest, not only on account of the importance of the question involved, but for many other reasons. Jack Walker had been a man of note, and had so much attracted a young daughter of Colonel Return J. Meigs, the United States Indian Agent,

that she eloped and became his wife, and a veritable Indian queen.

The Legislature of Tennessee had passed an Act extending the jurisdiction of the State, in certain high crimes, over the country then occupied by the Cherokees. Foreman having killed Walker in a difficulty arising out of the proposition to remove the Cherokees West of the Mississippi River, was indicted for murder. He pleaded that he was a native Cherokee, and that the crime charged against him, if committed at all, had been committed within the limits of the Cherokee Nation, and that the Act in question was unconstitutional. The plea was demurred to, but the demurrer was overruled in the lower court, and the plea sustained, and the State appealed.

Foreman was defended by Spencer Jarnagin, and prosecuted by Yerger and John H. Crozier, the District Attorney. The arguments and the opinions in the case attracted more attention, probably, than any others that have ever been delivered in the State. The opinions are undoubtedly the most learned in our Reports. Judges Catron and Green agreed in holding the Act of 1833 constitutional, but gave different reasons in support of their conclusions. Judge Peck dissented. The case is reported in 8th Yerger, and the opinions occupy more than one hundred pages. Mr. Yerger's argument impressed the Supreme Court so strongly that by request of the Judges it was printed as an appendix to the volume of his reports containing the opinions. The argument is nearly as long as Judge Catron's opinion, and rivals it in learning.

Another of the Yerger family, who was perhaps a man of greater ability than George, was his

brother, **Edwin M. Yerger**, who was at one time Chancellor at Memphis. A very eulogistic, but entirely general account of him appears in "Keating's History of Memphis." Foote says of him: "He was decidedly a man of genius." He further says, in effect, that he was not a student, and therefore failed of the full measure of professional achievement of which he was capable.

J. S. Yerger and **William Yerger** were brothers of George and Edwin, and both are given the title of Judge in Foote's sketches. They were not Judges in Tennessee, but doubtless held that position in Mississippi. Foote speaks of both in terms of the most cordial commendation.

Reuben Hatton, the grandfather of Robert Hatton, the subject of this sketch, was born in Virginia. One of his sons, Robert Clopton, entered the ministry of the Methodist Church. In 1826 he was located at Youngstown, Ohio, and there, November 2, of that year, was born **Robert Hopkins Hatton**. The full name is given here, but it should be stated that General Hatton, after reaching his majority, dropped the middle name.

In 1835 the fiat of the church brought Robert Clopton Hatton and his family to Nashville. Here the young Robert was at school until 1837, when the family took up its abode near Beech Grove, in Sumner County. In 1842 the father became pastor of a church at Gallatin, and there principally, the son was educated, and gave the first evidence of the disposition and the ability to speak in public. In his sixteenth year he delivered a Fourth of July oration on the Emperor Napoleon.

After leaving the local school, he was first a clerk in a shop in Gallatin and then a school teacher in the country. In the Autumn of 1845 he entered the junior class of Cumberland University. He was not well prepared, but by systematic and thorough work overcame all difficulties and received his diploma in June, 1847. He was then elected tutor in the University, and acted in that capacity for one year, when he entered the law department, where he was able to remain for only a year, on account of the failure of his means. In 1850, having secured a law license, he formed a partnership with Jordan Stokes, one of the principal lawyers of Lebanon. In the same year the Board of Managers of the Washington Monument, in Washington City, made him its agent in Tennessee, affording him opportunity for earnest and eloquent advocacy of the patriotic movement, in the press and in public addresses. In 1852 he dissolved his connection with Mr. Stokes and entered into a partnership with Nathan Green, Jr., who at the present time is the head of the law department of Cumberland University. On December 16, 1852, he was married to Miss Sophie K. Reilly, of Williamson County, Tennessee. His partnership with Judge Green lasted for three years. He quickly acquired an honorable position at the bar, and in 1852, yielding to a strong natural liking, made his first venture in politics, as sub-Elector on the Scott-Graham ticket. His speeches attracted favor, and in 1853 we find the Lebanon Herald declaring for the "gallant young Hatton" for Congress.

In the Summer of 1855 he was elected to the lower house of the Legislature from Wilson County, as a

Whig, and in 1856 was a candidate for Elector for the Fifth District on the Fillmore and Donelson ticket. In this canvass he sought in vain an opportunity to meet "Lean Jimmy Jones," formerly the Ajax of the Tennessee Whigs, who, strangely enough, was a zealous advocate of the Democratic nominee, Buchanan.

The Whig and American State Convention which met at Nashville, May 1, 1857, unanimously nominated Hatton for Governor. The Democratic candidate was Isham G. Harris, and the two competitors began their joint canvass at Camden, West Tennessee, May 25, 1857. At Fayetteville, in Middle Tennessee, the debate grew so warm that it resulted in physical violence. It seems that Harris struck Hatton and that the blow was promptly returned. The combatants were separated and the difficulty adjusted by their friends. In the matter of courage both were above suspicion. The canvass was continued without further personal difficulty until late in July, when both candidates were so exhausted by their tremendous labors, that they withdrew all unfilled appointments. The election occurred August 6, 1857, and the Democrats were successful by a majority of more than eleven thousand.

In 1859 Hatton was nominated as the Whig and American candidate for Congress in his district, and was elected.

J. V. Drake has published a very complete biography of General Hatton, in which are printed many letters written by him from Washington while he was in Congress, together with numerous extracts from his diary. One noteworthy fact about the diary is that each day's record closes with a statement of the chap-

ters of the Bible read that day. He reached Washington December 1, 1859, and that night read the first three chapters of Genesis. This is not lightly referred to, because honor is due the man who honors the Bible.

December 7, he writes in the diary: "Mr. Nelson, of Tennessee, made an admirable speech, in which he gave to Mr. Roger A. Pryor a perfect quietus."

On the 16th he wrote to his wife: "Have been invited to drink a hundred times. * * * I am, so far as I know, the only member of Congress, except Etheridge, that does not drink." In the diary of December 22, he writes that Henry Winter Davis, of Maryland, is the greatest man in Congress.

The diary for January 3, 1860, is very sincerely written, but is a little incongruous in its make-up, and somewhat amusing. It is as follows: "Mr. Cox, of Ohio, made a speech to-day, in the course of which he said if it had not been for John Brown's raid the Southern opposition and Republican party would, before then, have been united on that floor. I rose and told him it was false. He attempted to explain out of it but failed—took the lie and seated himself. He is a dirty dog—destitute of principle and courage. Read the 19th, 20th and 21st chapters of Leviticus and retired at 12 o'clock."

In the campaign of 1860, Hatton supported Bell and Everett. In December of that year he was again in Washington, and we find him writing in his diary: "The folly of mankind has never been greater than is now being exhibited by the politicians of the South and North. Disunion is ruin to both sections." On January 15, 1861, he writes to his wife: "All my

letters from Tennessee indicate that the feeling for secession is growing daily and rapidly. I fear it will sweep the State. What madness and folly. Unequalled in the history of mankind. Well, it was not I that did it, or aided to do it. My voice has been raised continually against it."

At this session of Congress he spoke boldly and eloquently in favor of the Union, condemning in strongest terms the Southern secessionists and the Northern agitators of the class of Garrison and Phillips.

Returning to Lebanon in March, he delivered there another powerful appeal for the Union. By his policy on this great question he alienated many friends, but he was a brave man and true to his convictions. But strong Union man as he was, his course in the event of the secession of Tennessee had been foreshadowed in his correspondence and speeches. He believed that the Northern agitators were not less to blame for the destruction of the Union than the Southern secessionists; he was a Southern man, honored by the Southern people, and reared in the political atmosphere of the South. He believed that it was his duty to stand by Tennessee and the South. Therefore, when Mr. Lincoln issued his call for volunteers, he set about raising a company for the Confederate army. He was elected Captain of this company, and almost immediately was made Colonel of the Seventh Tennessee Regiment.

The regiment was ordered to the front in July, 1861, and first served under General Lee in his West Virginia campaign, and afterwards took part in Jackson's Valley campaign, but was detached and sent to Rich-

mond early in the spring of 1862. May 23, 1862, Hatton was made a Brigadier-General in the Confederate army and placed in command of the Fifth Brigade, First Division and First Corps of the Army of Virginia. His brigade was composed of Tennessee regiments.

At half-past six o'clock on the morning of May 28, 1862, he wrote to his wife as follows: "We go to attack the enemy beyond the river. Would that I might bind to my heart, before the battle, my wife and children. That pleasure may never again be granted me. If so, farewell; and may the God of all mercy be to you and ours a guardian and friend.

'If we meet again we'll smile;
If not, this parting has been well.'

At sunset on May 31, the Battle of Seven Pines was raging. General Johnston had just been disabled. His successor in command, General Gustavus W. Smith, gave the order to Hatton to advance and attack the enemy. Hatton led the charge, the enemy's works were taken, but were recovered by an overwhelming force, and the Tennessee brigade, bleeding and shattered, retired, carrying with it the dead body of its General.

The death of General Hatton caused profound regret. He had won an enviable reputation, not only for gallantry, but also for less conspicuous and attractive, but not less important qualities of military leadership. He was a strict disciplinarian, and the careful guardian of the comfort and health of his men.

One writes of Hatton with peculiar pleasure. The material at command has been sufficient to impart a thorough knowledge of his character.

That he was a man of exceptional talents is not to be disputed. He was earnest, persistent and full of courage, physical and moral. He seems to have given much attention to the art of public speech, and to have attained extraordinary excellence in it. As a soldier he was conspicuously capable and gallant. At all times he was conscientiously and sincerely a religious man. Like most self-made men, he was perhaps unduly ambitious, and esteemed too highly the artificial honors of public station, but all in all he was one of the best and most admirable of the distinguished men of Tennessee.

Probably the most popular man that ever lived in Knox County was Judge **Ebenezer Alexander**. This popularity was founded upon personal worth and amiability, and unselfish and efficient public services.

Ebenezer Alexander, the son of Adam R. Alexander, was born in Blount County, Tennessee, December 23, 1805, and died at Knoxville, April 29, 1857. Soon after the birth of Ebenezer the family moved to West Tennessee. He was educated at Greeneville College, and at East Tennessee College, at Knoxville, and studied law under Judge Joshua Haskell, at Jackson, Tennessee. Having removed to Knoxville, he was married there, October 15, 1829, to Margaret, the fourth daughter of Hugh L. White. He was long a member of Judge White's family, and in charge of his private affairs, while he was away from home on public duties.

Mr. Alexander's wife died soon after the marriage, and on January 31, 1833, he married Margaret, the youngest daughter of Charles McClung. In 1838 he was appointed Attorney-General for the Second Cir-

cuit and served for a little less than a year. In 1844 he succeeded Edward Scott as Judge of the Second Circuit, Judge Scott having died in that year instead of in 1841, as stated on page 105 of this volume. Judge Alexander remained upon the bench until his death.

He was an able lawyer, a dignified, competent and efficient Judge—one of the best that ever sat upon the bench of Tennessee—and a man whose whole life was pure and without reproach.

His son, Ebenezer Alexander, now Professor of Greek at Chapel Hill, North Carolina, was minister from the United States to Greece during President Cleveland's second administration.

CHAPTER IX.

Horace Maynard—John Baxter—James E. Bailey—Thomas D. Arnold—John Netherland—Thomas A. R. Nelson—Thomas M. Jones—M. R. Hill.

Horace Maynard was one of the leaders of the Union party in East Tennessee throughout the period when secession was discussed, attempted and defeated. As an active, conspicuous and aggressive participant in all events of that disturbed and trying time, he won the good will and confidence of his own party, and naturally incurred the enmity of the opposing party. But the war is now far behind, its prejudices are almost gone, and the time has come when men of all parties will admit that Horace Maynard was not only one of the ablest of our public men, but also one of the best.

He was a native of Massachusetts, and was born at Westborough, August 30, 1814. He was a graduate of Amherst in the class of 1838. In the year of his graduation he came to Knoxville, Tennessee, and began to study law in the office of Judge Ebenezer Alexander. At the same time he was made tutor, and afterwards Professor of Mathematics in East Tennessee University. His connection with the University continued for six years. At the end of that period he entered upon the practice of law.

The emoluments of his professorship had not been

large, and his means were so limited when he came to the bar that while other lawyers rode the circuit he, at first, walked it. It was not long until he made himself felt at the bar. He had industry, the first quality of a lawyer; he had read thoroughly, as law students read in those days, and had by nature a discriminating and analytic mind, which had been improved by careful and persistent study. His scholarship was of the highest order, and he was easily the best read man of that time at the bar of East Tennessee, which contained many lawyers of ability and culture.

There is a story much told in East Tennessee, that on one occasion the Knoxville lawyers going to court at Clinton, in Anderson County, found the Clinch River impassable except by swimming. Maynard plunged boldly in and swam across. When he was safely over, the other lawyers called to him to attend to their cases, and returned home. The story further is that the cases were so well attended to that the clients all went to Mr. Maynard from that time.

As an advocate he was not only a brilliant and logical speaker, but at times a very severe and sarcastic one. Nevertheless he was at heart one of the kindest of men.

His first appearance in politics was in 1852, when he was a candidate for district elector on the Whig ticket. At the next election he was the Whig candidate for Congress in the Knoxville District, but was defeated by the late William M. Churchwell. His speeches, however, made such an impression on his party that from that time as long as he lived he was its accepted leader in East Tennessee. In 1856

he was the candidate for State Elector on the Fillmore ticket, and canvassed the State with William H. Polk. In 1857 he was elected to Congress as a Whig, and was re-elected in 1859 and in 1861. Congressional elections were at that time held in August. Mr. Maynard was an avowed Union man, and an object of suspicion and dislike to the Southern sympathizers. On election day of 1861 he went to Jacksboro, in Campbell County, near the State line, and that night crossed the mountains into Kentucky. He was admitted to his seat in Congress, and served out the term as a zealous supporter of Mr. Lincoln's administration. At the end of his term, and while Andrew Johnson was Military Governor of Tennessee, Mr. Maynard was made Attorney-General for the State, and served until 1865, when he was elected to the 39th Congress from the Knoxville District. He was re-elected from that district to the 40th, 41st and 42nd Congresses, and was elected in 1872 to the 43rd Congress from the State at large. The canvass of 1872 was a memorable one. The regular Democratic nominee for Congress from the State at large was General B. F. Cheatham, but Andrew Johnson had sought the nomination, and being dissatisfied with the result, had become an independent candidate. The three competitors canvassed the State. One of the hardest battles of the campaign was at Knoxville. General Cheatham, who did not count oratory among his many good qualities, opened the debate and contented himself with a brief written address. Having read his address he retired to the hotel veranda and placidly smoked many cigars, leaving the arena to his competitors. Mr. Johnson was the hero and victor of

many such contests, but it must be admitted that on this occasion he did not win fresh laurels. He lacked the versatility and readiness of his opponent, and above all the keen sarcasm which he was able to command at will. It was a great debate and added largely to Mr. Maynard's reputation. In 1874 he was a candidate for Governor, but was defeated by James D. Porter. In 1875, having served sixteen years in Congress, he was appointed by President Grant Minister to Turkey, and served until 1880, when he was recalled by President Hayes and made Postmaster-General of the United States. This was his last public office. He died at Knoxville, May 3, 1882.

He had been since 1849 a ruling elder of the Second Presbyterian Church at Knoxville, and was throughout his life a consistent and devout Christian.

Mr. Maynard had many bitter political enemies, but none ever denied his sincerity or integrity. A story, told in many forms, is that on one occasion he was approached by a prominent Tennessee politician with a proposition which suggested improper rewards. He made no reply, but went to his bookshelves and, turning his back upon his visitor, proceeded to read aloud with much emphasis, again and again, the statute of the United States on the subject of offering bribes to members of Congress. At each reading of the statute he would emphasize a different word in order that his auditor might get the full effect of every word of the law. The question was never answered, but the visitor was given every advantage for familiarizing himself with the law relating to bribery. It is said that after awhile he retired in great confusion, leaving Mr. Maynard still reading in sonorous tones.

In the absolute purity of his public life and of his private life Mr. Maynard offers an example worthy of all imitation. In all his dealings, in all relations in life, he was consistently a Christian gentleman. Throughout his life he continued to be a student. A large and well selected library gave him the means of gratifying his tastes, and without being in any sense a pedant, he had about him the flavor of learning at all times. Physically he was of striking appearance. He was six feet and two inches in height, erect in bearing, and deliberate and dignified in deportment. His complexion was dark, and his features strongly marked and full of intelligence and force. His hair was always worn so long that it touched his shoulders. His voice was deep, clear and strong, and so thoroughly trained and well handled, that no amount of use impaired its quality. As a speaker he was deliberate, and rarely indulged in what are called flights of oratory, but by far the most eloquent utterance the writer has ever heard was a short and apparently unpremeditated eulogy on Henry Clay injected by Mr. Maynard into a political speech at Knoxville.

He had none of the arts of the demagogue. His speeches upon political subjects always seemed far above his audience, yet they were always appreciated, and he was the most popular public speaker in East Tennessee, with the possible exception of Judge Thomas A. R. Nelson. Political opponents dreaded and disliked him, and aspiring members of his own party, assiduously courting the popular favor, could not understand why it was that this retiring and apparently cold and haughty man, inexpert in handshaking, was preferred even by the common people.

His duties as a diplomat were faithfully performed, and his services were in the highest degree acceptable and satisfactory. As Postmaster-General, he displayed all the qualities that made his life one of continuous success. By means of his great abilities and his conscientious devotion to duty, he gave satisfaction and made reputation in every office to which he was called.

In early life, and in the heated political struggles that engaged him for many years, his utterances were sometimes harsh, but in times of revolution, antagonists do not pelt each other with roses, and upon the whole it is safe to say that Mr. Maynard was among the most moderate men of either side. He was always respected and admired rather than popular. In manner and in temperament he was austere, and not cordial except to intimate friends. It is only those who were very near to him that know how kindly his disposition really was.

After his retirement from the Cabinet he lived at his home in Knoxville, and mingled in the social life of the city more than ever before.

It is not often that a man has lived so conspicuous and militant a life as Mr. Maynard lived, without being an object of slander and defamation. It is believed to be a fact, however, that while his political enemies found everything to say against him after the manner of politicians, his private character was never assailed. He was a profound scholar, a great lawyer, a statesman of conspicuous ability, and always and everywhere an honest man and a Christian.

John Baxter was born in Rutherford County, North Carolina, March 5, 1819. His father came

from Ireland to America seeking the fortune which the New World promised to industry and courage, but the only heritage that he was able to leave his children was his good name. His son, the subject of this sketch, had no opportunities for education except such as were afforded by the old field schools of the neighborhood. He began real life as a merchant in the State of North Carolina, but this pursuit was uncongenial, offering no opportunity for the exercise of the powers of mind of which he could not have failed to be conscious, and he wisely abandoned it for the profession of the law. His adaptation to this new calling was speedily shown in the most gratifying manner. In a few years he rose to a position of deserved and enviable prominence at the bar of his native State. In politics he was a Whig, and as such was elected more than once to the Legislature of North Carolina, in which at one time he was Speaker of the lower house. In 1844 he was district Elector on the Whig ticket.

It is interesting to know that in early life Judge Baxter accepted the code of honor and fought a duel, in which he was slightly wounded. By accident his antagonist fired before the word was given. Thereupon Baxter turned to the spectators and said: "Gentlemen, duelling is wrong, and I do not intend to take part in another one." He then fired his pistol into the air, and the affair ended.

In the Spring of 1857 he removed to Knoxville, Tennessee, where his most important professional work was done. During the war he was loyal to the Federal Union, and a fearless advocate of its cause. In the Constitutional Convention of 1870 he was a

delegate from Knox County, and his ability as a lawyer was recognized by his appointment to the chairmanship of the judiciary committee. This was especially complimentary to him because he had been a Union man, whereas a majority of the Convention had supported the Confederacy. It will be found by an examination of the journal of the Convention that he was one of the most frequent, as he certainly was one of the most competent, participants in its deliberations.

During the next seven years he conducted probably the most lucrative law practice that ever has been acquired at the bar of East Tennessee. In all the courts of the State his superiority was acknowledged, and he was frequently employed in cases of importance and difficulty before the Supreme Court of the United States. He was not a specialist, but practiced in all the Courts, and was not less efficient before a jury than in the Chancery and Supreme Courts. In 1877 President Hayes appointed him Judge of the Circuit Court of the United States for the Sixth Circuit. He died at Hot Springs, Arkansas, April 2, 1886.

Judge Baxter came to the bar equipped with very little learning except in the law. Of that science he had been a faithful student, and his extraordinary powers of mind enabled him readily to acquire an adequate knowledge of it. His distinguishing characteristic as a man was force. Intellectually and morally he was firm, independent, self-reliant. His individuality impressed all with whom he came in contact. Necessarily the speech and conduct of such a man appeared at times harsh and arbitrary. Never-

theless, he was essentially a just man. He saw things clearly, and in their true relations and proportions, and perhaps too frequently failed to realize that others were not so clear-sighted and so fearless of consequences.

As a lawyer he excelled chiefly by reason of his mastery of essential principles. He was thoroughly versed in constitutional, statutory and reported law, but his powerful mind was not always satisfied with what had been written. He recognized the truth that changing conditions of society frequently necessitate departure from precedents, and therefore, both as a lawyer and as a Judge, he was liberal and progressive; not forgetting, however, that without certainty and stability there can be no law. He was by nature a leader, and never a follower. Sometimes his independence appeared to amount almost to eccentricity. He was positive, often extreme; sometimes arbitrary; always combative. He found his greatest pleasure in intellectual exercise, and his weapons were always sharpened and ready for battle. Such men do not go through the world without enemies. His life was militant and aggressive. He created bitter enmities, but found compensation in the devotion of sincere and faithful friends.

His courage, moral and physical, was unyielding. Conditions succeeding the war were such as to provoke bitter controversies at the bar. Not infrequently the trouble extended further. Judge Baxter's position of leadership at the bar caused him to be retained in nearly all the important and hotly contested cases, and his aggressive professional methods often gave offense. In more than one personal

affair produced in this way his extraordinary firmness of mind and of will were strikingly displayed.

He was not a declaimer nor a skilled rhetorician, but at times he was, in the best sense of the word, an orator. It is remembered that in a case in which he was personally interested, he made an argument before a jury which is conceded to have been the most effective speech ever made at the bar of Knox County.

He was a lawyer of the class to which John Marshall belonged, and was fitted, like Marshall, to have been the founder of a jurisprudence. His whole professional life was given to the study of the law as a science, whose principles were imperfectly comprehended, and more imperfectly practiced, and not finished and bound in books. He once said, half in jest, half in earnest, to a young practitioner: "File your bill and find your authorities afterward." This might have been dangerous advice if seriously taken, but it indicated to a certain extent his own methods. His course as a lawyer was guided by his knowledge of principles; and his citations of authorities were for the benefit of the courts, in too many of which it is the accepted opinion that law exists only in leather bindings. If his briefs were examined it would be found that the authority most frequently cited is Kent's Commentaries. It was his invariable rule to base his arguments on principles, and not on cases.

Many lawyers consider it important to present all the points in their cases, however small they may be. Judge Baxter gave his attention exclusively to the material and controlling issues. No lawyer wasted less time in unnecessary argument, and no Judge

more completely excluded from his decisions everything irrelevant and immaterial.

In his time Judge Baxter was the accepted leader of the East Tennessee bar. His ascendancy was hardly more attributable to his recognized superiority as a lawyer than to his commanding personality. His methods, as a Judge, were so direct, and his ability to make up his mind so extraordinary, that the lawyers were not infrequently disappointed in their expectations of making learned arguments. It is related that on one occasion there came before him a patent case, in which eminent counsel had been engaged for many months. Money had been spent without stint, and evidence had been taken on both sides of the Atlantic, until the record had grown to immense size. At the time appointed the learned counsel, with their huge record, presented themselves in court. The Judge desired to know the question in the case. An iron bolt was presented to him, and he was told the question was whether or not it could be patented. He took the bolt in his hand, and, without hearing a word of argument, or a syllable of the proof, decided the case, saying: "This bolt was in common use when I was a boy, and is therefore not patentable now." Upon appeal to the Supreme Court of the United States he was sustained.

All in all, Judge Baxter was one of the most remarkable men in the history of Tennessee.

James E. Bailey was born in Montgomery County, Tennessee, August 15, 1822, and died at Clarksville, in that county, December 29, 1885. He was of Scotch-Irish ancestry. The father, George Bailey, was for forty years Clerk of the Circuit Court of Montgomery County. He gave his son a liberal edu-

cation at Clarksville Academy, and in the University of Nashville, of which Dr. Lindsley was then President.

James E. Bailey was admitted to the bar in July, 1842, being then twenty years of age. In 1853 he entered public life as a member of the Legislature, and was one of the principal supporters of the policy of internal improvements. In politics he was a Whig, and adhered to that party until its dissolution. In the controversies preceding the war he was an earnest Union man, as were his distinguished neighbors, Cave Johnson and John F. House, and these three were elected, in February, 1861, as Union delegates to the proposed convention to pass on the question of secession. The convention was not called, however, and when Tennessee left the Union he, like many others who had opposed the movement, went with her and espoused the cause of the South. He was appointed by Governor Harris a member of the State Military Bureau, whose duty it was to organize and equip the State troops. After a few months' service in this capacity he raised a company among the young men of Montgomery County and was elected Captain. His company was attached to the Forty-ninth Tennessee Infantry, and he was shortly afterwards elected Colonel of that regiment. He was captured at Fort Donelson, and was carried as a prisoner of war to Fort Warren, where he remained until exchanged in the fall of 1862. He rejoined his regiment at Vicksburg, Mississippi, and commanded it until the Spring of 1863. At this time his health failed, and he resigned the command of the regiment, and was made a member of the military court of the corps of General Hardee, which position he held until the end of the war. After

the surrender he returned to Clarksville and resumed the practice of the law.

In 1874 he was a candidate before the Democratic convention for Governor, but was defeated by James D. Porter. He served twice as special Judge upon the supreme bench of the State, and probably might have had the position permanently if he had desired it. In January, 1877, after a long and hard-fought contest, he was elected to the United States Senate to fill the unexpired term of Andrew Johnson. In the Senate Mr. Bailey at once took rank as one of the ablest lawyers in that body. It is related by one who claims to have heard the remark, that when Senator Thurman heard that Bailey had been defeated for re-election to the Senate, he said: "What fools the people of Tennessee are, when they have a Senator like Bailey, not to keep him."

At the expiration of his term as Senator, he was defeated for re-election, mainly on account of divisions in the Democratic party on the question of settling the State debt. He belonged to what was known as the "State credit," or high tax faction of the party, and to the persistent residuum of that party, which in 1882 was known as the "Sky-blues."

Toward the close of his services in the Senate, his health began to fail, and he died December 29, 1895.

Mr. Bailey was one of the best balanced men, and one of the most thorough and competent lawyers this State has produced. He was not a brilliant man, but had a sound, strong, clear mind, a cautious method, and habits of incessant application. He was a close and careful reasoner, and always conscientious, so that he is said to have been a strong advocate in a good

case, but not very efficient in a bad one. He was a ready worker as well as a persistent one, and therefore accomplished much. In every respect he was a clean and upright man, not a party leader, but a student, and a scrupulous thinker, weighing carefully every question presented to him, and lacking the "one-sidedness" that seems to be a condition to successful political leadership; not a successful politician, because, having reached a conclusion, he adhered to it, and would not compromise. By his personal purity and dignity, and by his ability as a lawyer, and his clear and forcible methods of expression, he acquired and held the esteem and respect of the Senate. He was not aggressive like his colleague, Senator Harris, nor so well equipped in political tact and experience, but as a perspicuous and conscientious reasoner and debater, and as a lawyer, he won a highly honorable place in the Senate, when it numbered among its members such strong men as Edmunds, Sherman and Thurman.

Thomas D. Arnold was a native of Virginia, and was born in Spottsylvania County, May 3, 1798, and died at Jonesboro, Tennessee, May 26, 1870. His father was a farmer and a man of small means who was unable to afford his son an education. At the age of fourteen the boy enlisted for the war of 1812, being so large for his age that he was accepted as a soldier without question.

He was admitted to the bar at Knoxville in March, 1822. His combativeness led him early into politics, and in 1827, and again in 1829, he was an unsuccessful candidate for Congress.

In 1831 Arnold was elected, as a Whig, to represent the Second District in the Twenty-second Congress.

In Congress he voted to renew the charter of the United States Bank.

Arnold was a candidate for Congress in 1833, in the First District, but was defeated by Samuel Bunch, who again defeated him in 1835. In 1837 he was defeated by William B. Carter. In 1841 he was elected to Congress from the First District, being at that time a resident of Greene County. In 1836 he was made Brigadier-General of the Second Brigade of Tennessee Militia. In 1840 he was the Whig candidate for Presidential Elector for his district.

When he was not in office he was a practicing lawyer, from 1822 to 1870, and from Knoxville to the Virginia line was recognized as a fighting lawyer. All his methods were combative and personal, and invective was a favorite resort.

As a lawyer he was a fairly successful practitioner, but did not achieve especial distinction, probably because of his proneness to abandon the profession whenever the opportunity came to go into politics.

The name of **John Netherland** is a pleasant sound in the ears of East Tennessee lawyers. It suggests the most successful advocacy, the keenest and readiest wit, geniality, good-fellowship, and hearty old-fashioned manners.

Probably no other lawyer of equal reputation ever cared so little for book law as Mr. Netherland. Probably no other lawyer who knew so little law was ever so successful. He was a jury lawyer and the best of his class. The Supreme Court-room he rarely visited, and the long pleadings, the tedious depositions and dry

details of the Chancery Court repelled and oppressed his lively genius. He was not a hard-working lawyer, but before an East Tennessee jury he was a very Achilles. No foeman could withstand him. Here he was genuinely eloquent and unfailingly effective. His natural abilities were extraordinary, but had been cultivated only in ways that are easy to men of quick and lively parts. Human nature, as it exists in the mountains of East Tennessee, was the book in which he was best read, and he knew it thoroughly. In homely wit and in anecdote he surpassed any man of his time in East Tennessee, and he raised up a host of imitators who cultivated and still cultivate the anecdote as a jury lawyer's most valuable possession.

He was born in Powhattan County, Virginia, September 20, 1808. While he was a child, the family moved to Sullivan County, Tennessee, and settled at Kingsport, on the Holston. He was well tutored, having Samuel Doak for one of his masters, and Samuel Powell as his preceptor in the law. Procuring his license in 1829, just before he was twenty-one, he removed in 1830 to Franklin, where he remained for about two years, and then returned to East Tennessee. In 1833 he was State Senator from the First District, and in 1835 represented Sullivan County in the lower house of the Legislature. He had been a Jackson Democrat, but in the Legislature refused to vote to instruct our Senators to support Benton's expunging resolution, and resigned. In 1836 he was District Elector on the White ticket, and in 1848 was Elector for the State on the Taylor ticket. In 1851 he was sent to the Legislature from Hawkins County.

In 1859 he was the Whig candidate for Governor against Isham G. Harris, but was defeated. In the war between the States he was a Union man, but was not in the army. At the close of the war his largeness of heart and liberality of sentiment were constantly displayed. He was the steadfast friend of the unfortunate and sometimes oppressed Confederates, and with Thomas A. R. Nelson and a few others of a like liberal and lofty quality, incurred no little odium at the hands of the radical Union element.

He was a member of the Constitutional Convention of 1870, but was not conspicuous in its deliberations. His death occurred October 4, 1887.

In his time he was one of the famous men of East Tennessee, and was regarded throughout that section as its most successful jury lawyer. His bright sayings and amusing stories were household properties. To the very last a speech by Netherland always filled the court-room, and never failed to entertain and please spectators, jury and Judge. No practitioner secured more verdicts, but he was not addicted to unfairness or any unprofessional conduct. He was an honest, just and kindly man. In court and out of court he was ever the center of a delighted audience. His habits and tastes were simple, and he was essentially a domestic man, devoted to his family and happy in their love.

He was the prince of circuit riders and would gladly have died in harness, but some years before his death an accident disabled him. The closing years of his life were clouded by financial and domestic misfortunes, but he endured them all with unflinching and ad-

mirable fortitude, displaying a noble resignation that surprised even those who had admired him most.

Thomas A. R. Nelson was born in Roane County, Tennessee, in 1812, and graduated at East Tennessee College, now the University of Tennessee, in 1828. He studied law under Judge Thomas L. Williams, and was admitted to the bar before he reached his majority. At the age of twenty-one he was appointed by Governor Carroll, State's Attorney for the First Circuit, where he then resided. He was afterwards twice elected to that office by the Legislature, and held it until 1844. In that year he canvassed the First Congressional District as the Clay candidate for Elector, and again, in 1848, canvassed it as candidate for Elector on the Taylor ticket. In 1851 he was offered the mission to China, but declined it. In the same year he was before the Whig caucus for the United States Senatorship, but was defeated by James C. Jones by one vote. In 1859 he was the Whig candidate for Congress in the First District. His competitor was Landon C. Haynes, and to this day every old Whig, and every old Democrat of the First District, is enthused by the mention of the Nelson-Haynes canvass. There could not have been found in the State, at that time, two men more capable of affording the people the enjoyment they most craved. At every village and cross-roads the gladiators met and strenuously contended. Never before had the polemic people of the First District enjoyed such a treat, and never shall they see its like again.

Nelson was elected by a small majority. It was during this session of Congress that he made that famous

speech for the Union, which the London Times declared the highest product of American oratory.

In 1861 he was again elected to Congress, but endeavoring to make his escape across the mountains to Kentucky, was captured by Confederate scouts in Southwestern Virginia, and was taken as a prisoner of war to Richmond, where he was paroled upon condition that he would not engage in hostilities against the Confederate States so long as they had possession of Tennessee. He returned to his home in Washington County, where he remained until General Burnside occupied East Tennessee in 1863, when he removed to Knoxville, where he resided until his death in 1873.

When the Supreme Court of the State was re-organized under the Constitution of 1870, he was elected to that body from East Tennessee. He remained upon the supreme bench, however, but little more than a year, when he resigned for the purpose of attending to his private affairs. He fell a victim to the Asiatic cholera which invaded East Tennessee in the Summer of 1873.

In the great impeachment trial of Andrew Johnson, Judge Nelson was one of the counsel of the President. The argument that he made before the Senate in the course of the trial did not satisfy him, and to the day of his death he criticised it with undue severity. It was almost an impromptu argument. Judge Ingersoll, in his sketch of Judge Nelson read before the Tennessee Bar Association, says that "until a very few hours before he arose to address the Senate on this occasion, Colonel Nelson had not expected to take part in this memorable argument. * * * The speech, therefore, does not show the elaborate finish

which characterizes the efforts of his associates, Evarts and Groesbeck, and of the impeachment managers." The speech, nevertheless, was an admirable one, and will continue to reflect great credit on its author.

Judge Nelson was beyond question one of the best lawyers the State has produced. His mind was both quick and strong. His study of the law had been extensive and thorough, and he had a lasting fondness for the fine distinctions and the rounded verbiage of the common law. In the preparation and in the argument of his cases he was laborious to the last degree. His constant companion in the court-room was a large portfolio, in which were carefully prepared briefs and notes for argument in every case. There were no typewriters in those days, and he was his own secretary. All his papers were in his own minute, regular and exact handwriting. His method in preparation and in argument, was to omit nothing. No fact, however small, escaped his attention, but was considered and argued with fullness, and with earnestness. The contrast between Judge Nelson and Judge Baxter in this respect was marked. Baxter succeeded Nelson as the leader of the Knoxville bar, but before Nelson's death the two sometimes met in important cases. Nelson, in earnest, impassioned argument, swept the entire case step by step, discussing with learning and with wonderful ingenuity and force every proposition of law and of fact. Baxter, upon the other hand, ignoring all minor issues, seized upon the great controlling questions and devoted to them his entire strength. Both methods have their advocates, and as exemplified by these two great lawyers, both are admirable.

Judge Nelson had a large practice, but was too indifferent to money to secure adequate returns from it.

His temperament was that of the orator and the poet. He had the gifts of speech, of fancy, of imagination. It is not often that these qualities are happily combined, as in his case, with the power of analysis, and the habit of laborious investigation. In this union of diverse qualities was great strength. The most common facts and occurrences were invested with interest and significance under the play of the advocate's impassioned rhetoric and rich fancy. For style Judge Nelson went to the old masters of English, and his diction was always rich and imposing.

He was the most kindly and generous of men, always ready to help the needy. To his friends his purse was always open, a fact which was too well known for his own good. While he was a consistent and strong Union man, he was repelled by the radical tendencies exhibited by some of his associates at the end of the war, and united himself with the Conservative party, which ultimately was merged in the Democratic party.

Judge Nelson retired from the bench for purely personal reasons. His relations with his associates were pleasant, and the work was not uncongenial. That judicial duties were less to his tastes than the gladiatorial combats of the bar and the hustings, may be true, but his opinions show clearly that he possessed the qualifications of an efficient and useful Judge. The remaining two years of his life were passed at his home in Knoxville, quietly and happily. His per-

sonal popularity in East Tennessee was very great. He was held in cordial esteem by men of all parties.

He was socially inclined, and a fine converser. He was a man of much refinement also, and his manner toward ladies was in delightful contrast to the free and easy demeanor which seems to meet the approval of society at the present time. He was a "gentleman of the old school." Hallowed be his memory, and the memory of all like him. The writer of this Sketch dwells with peculiar pleasure upon his memories of Judge Nelson, from whom in childhood he received many of the little kindnesses that win the hearts of children. His love of children was one of his many pleasing qualities. No man lived on a higher plane. He was incapable of anything little or mean. Falsehood and all deceit he held in scorn and detestation, and his word was never broken. He had many old-fashioned ways as a lawyer, and would give his services to a widow, or any helpless person, with as much readiness and zeal as for the largest fee. As is not unusual with such men he was as guileless as a child. For this reason he was often deceived by designing persons, but never lost faith in humanity.

Along with these qualities he had the highest physical and moral courage. Ever faithful to his convictions, he never lacked the courage to declare and support them.

His son, a second Thomas A. R. Nelson, is a lawyer of high standing in East Tennessee, and in 1894 was elected Judge of the Criminal Court of Knox County.

Thomas McKissick Jones was born in Pearson County, North Carolina, December 16, 1816, but while he was an infant his father's family removed to Giles

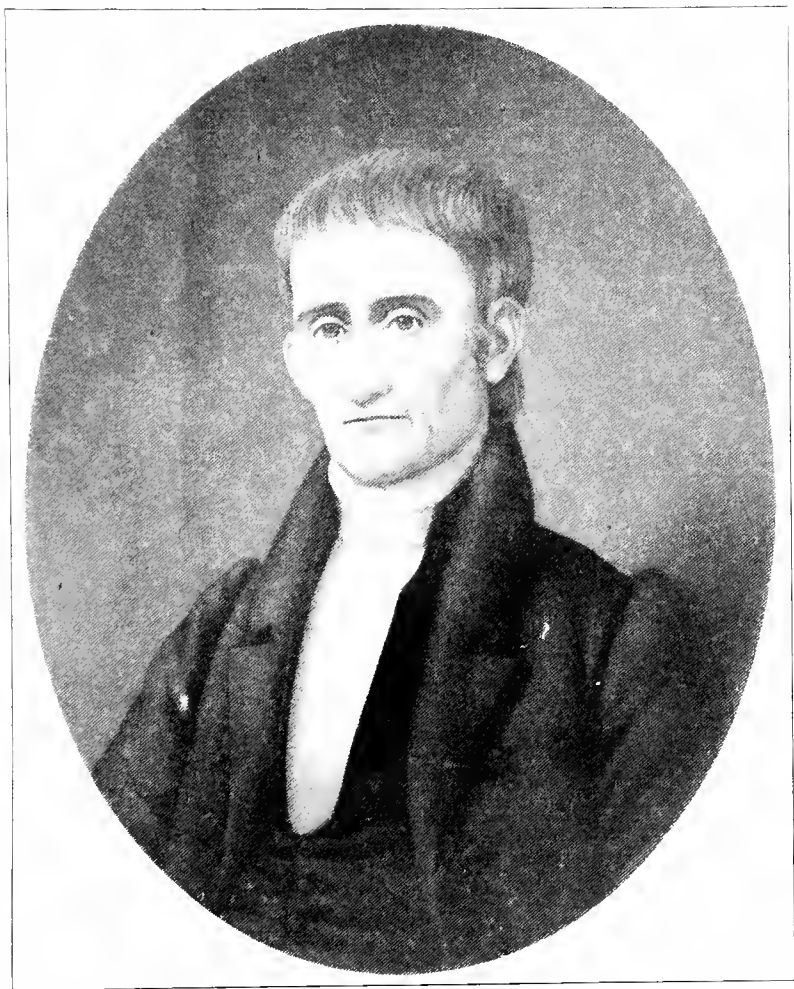
County, Tennessee, where he was reared and passed his life. He attended local schools until 1831, when he was sent to the University of Alabama, where he remained until 1833, after which he attended the University of Virginia.

Returning to Pulaski in 1835, he read law one year, and the Florida war breaking out at that time, put aside his professional pursuits, and raised a company which formed a part of the First Tennessee cavalry, or mounted infantry, Regiment. He was made Captain of the company, and had among his men Neill S. Brown, Archibald Wright, and Solon E. Rose, who came so near being United States Senator. At the end of the war he returned to Pulaski, and was licensed to practice law. He continued in the practice without interruption until 1844, when he was made County Elector for Giles County on the Democratic ticket. In 1845 he was elected to the lower house of the Legislature, and in 1847 was chosen State Senator for the counties of Giles and Maury. In 1861 he was elected to the Confederate Congress, and served until after the fall of Fort Donelson, declining a re-election. He remained in Pulaski until the Federal occupation of that place, when he was seized and sent as a prisoner to Governor Andrew Johnson, at Nashville. Johnson paroled him on condition that he would not communicate with the Confederate Congress or with the Confederate commanders while Pulaski was surrounded by the Federal forces. After the Federal armies had been withdrawn, he went South and remained until the close of the war, although he did not enlist. After the war he resumed his practice at Pulaski, and continued it until his death.

In 1872 he was, by appointment, for ten months Judge of the Criminal Court for the counties of Giles, Maury, Williamson and Marshall. In 1877 he was Judge of the Court of Arbitration for Middle Tennessee. At different times he served upon the supreme bench by special appointment, and on one of these occasions delivered a very learned and able opinion in the case of the *State of Tennessee vs. Whitworth*, reported in 8th Lea, 594. This was the case in which the State, the County of Davidson and the City of Nashville claimed the right to tax land which had been granted by the State of North Carolina to the University of Nashville, a provision of the grant being an exemption from taxation for ninety-nine years. The Court held the property exempt.

Judge Jones was throughout his life a Democrat. In 1856, and again in 1880, he was a delegate to National Democratic conventions. He was a delegate from Giles County to the Constitutional Convention of 1870, and served on the Judiciary Committee. He advocated the appointment of Judges and Chancellors by the Governor, hoping thereby to remove the Judiciary from politics.

He was twice married, and his descendants form a goodly company, both in number and in quality. One of his daughters married Z. W. Ewing, of Pulaski, one of the leading lawyers of Middle Tennessee. Three of his sons were in the Confederate army, and two of them were captured at Fort Donelson. Judge Jones was a man of very considerable ability, and while he was frequently drawn into politics, his ambitions were all in the line of his profession. He was an industrious and capable lawyer, with an aptitude for affairs very



Gen Averton

uncommon in his profession. By thrift and by judicious investments, he accumulated a considerable estate, and passed the closing years of his life in comfort, although he suffered at one time large losses as surety for his friends. While he was not among the most conspicuous public men of his time, he held a high place at the bar, and was widely known as one of the best and most useful citizens of Tennessee.

He died March 13, 1892.

M. R. Hill was born at Churchville, in the State of New York, and died at Memphis, Tennessee, October 24, 1867. Before he had attained his majority he went to Kentucky, where he read law, and then came to Dyersburg, Tennessee, where he opened an office and began the practice. This was in 1839. He was without friends or money, but studious habits and a correct life commended him to public favor, and his rise in the profession was rapid.

In 1849 he moved to Trenton, and in the same year was elected to the State Senate from a district composed of Gibson, Carroll and Dyer Counties. He was re-elected from the same district in 1851, and was chosen Speaker of the Senate. He was originally a strong Union man, but upon the outbreak of the war, cast his fortunes with the South and entered the Confederate army. In December, 1861, he was elected Colonel of the Forty-seventh Regiment of Tennessee Volunteers, and in a brief term of service displayed marked ability for military affairs. His regiment was engaged on the second day of the battle of Shiloh, and was conspicuously gallant. Soon after the battle Colonel Hill was attacked by a malignant and lingering fever, which permanently impaired his health, and

made it impossible for him to continue in the army. At the close of the war he opened an office in Memphis and practiced his profession until his death.

He is described as a man of decision, of great industry, and unyielding determination. He excelled especially as an advocate, but was accomplished in all branches of the law. His life was correct, and his influence as a man and as a lawyer was salutary. His devotion to duty is illustrated in the manner of his death. At a time when he was called away from home by business, the yellow fever broke out in Memphis, and his friends besought him not to return home. He felt, however, that it was his duty to return. In a few days the fever attacked him and he died. In the resolutions adopted by the bar of Trenton, at the time of his death, he is described as a great lawyer, and as one of the best debaters in the State.

The meagre accounts of him that are accessible, indicate that he was a scholarly man, and that he was habitually active, not only in his own affairs, but in all matters of public improvement.

CHAPTER X.

John C. Brown—J. C. Guild—W. H. Sneed—T. C. Lyon—C. F. Trigg—J. W. Deaderick—T. J. Freeman—Robert McFarland—J. C. Burch—J. C. Gaut.

The following Sketch of John C. Brown was written by Judge John S. Wilkes, of the Supreme Court, who was the law partner and the intimate friend of Governor Brown.

One of the noted figures in Tennessee history is that of **John Calvin Brown**. He was prominent alike in legal, in business, in social, and in military circles, and any sketch of his life confined to one of these features alone, would be necessarily imperfect. He was born January 6, 1827, in Giles County, Tennessee, and of this county he remained a citizen until his death. His father, Duncan Brown, was a farmer in moderate circumstances. His mother's maiden name was Margaret Smith. Both parents were of Scotch descent. They emigrated from North Carolina in 1808. John C. was educated in the old field schools prevalent in Tennessee at that time. He afterwards entered Jackson College, at Columbia, Tennessee, where he received the best literary education that its curriculum afforded.

John C. Brown was licensed to practice law in October, 1848, and in a short time secured a large and

lucrative practice in Giles County and the counties contiguous thereto. In 1859, being in delicate health, he made a tour of Great Britain, the continent of Europe, Egypt and the Holy Land. His mind already stored with legal and general information, broadened and strengthened under the influences of foreign travel, his health was restored, and he was prepared for the eventful life which lay before him.

Up to this time he had never sought office, but had devoted his time and energies to his profession. He was a man of pronounced political views, however, and was always, even after that party passed away, a zealous Whig. In 1860 he was an Elector on the Bell and Everett ticket. Mr. Lincoln was elected, the secession of certain States of the South followed promptly, and the civil war soon after became flagrant.

Tennessee was intensely excited over the question of remaining within the Union or seceding. Mr. Brown took the stump, and made a vigorous canvass in favor of the Union.

Events followed each other rapidly; South Carolina and Mississippi seceded. Fort Sumpter was fired upon and reduced. War became inevitable. Tennessee began organizing her troops for the emergency. John C. Brown in this crisis stood with his blood and people, and entered the service of the State. He did not enter the Confederate army, but was always zealous in asserting that he entered the service of his native State, obeyed her behest, and did what he could to sustain her honor and independence. Enlisting as a private, he was at once elected captain, and immediately thereafter, May 16, 1861, was elected Colonel of the Third Regiment of Tennessee Infantry. At

Fort Donelson he was in command of a brigade. He was captured and sent to Fort Warren, was exchanged in August, 1862, promoted to the rank of Brigadier-General and assigned to duty with General Bragg. He participated in the battles of Perryville, and other engagements in Kentucky, was a prominent figure in the Georgia campaign under General Joseph E. Johnston, engaged in the battles of Chicamauga, Mission Ridge, the hundred days' contest between Dalton and Atlanta, and in all the battles incident to the retreat. He was promoted to the rank of Major-General, was wounded at Franklin, Tennessee, under General John B. Hood, and soon thereafter finished his military career.

In his relations with the army he was always a strict disciplinarian, and ever at the post of duty.

At the close of the war he returned to the labors of his profession at Pulaski, Tennessee, and continued in active practice until 1870, when he was elected a member of the Constitutional Convention, of which, upon its organization, he was made President.

In the same year he was elected Governor of Tennessee, under the new Constitution, and in 1872 he was re-elected to the same position. His administration of State affairs was upon a strictly legal and business basis. During his incumbency the bonded debt of the State was reduced, and a floating debt of three millions paid.

He was an uncompromising supporter and sustainer of the credit of the State, and during his administration the finances of the commonwealth were placed upon a sure and safe basis. His firm stand for the credit of his State and the maintenance of her plighted

faith cost him his political life, and in 1875 he was defeated by ex-President Andrew Johnson for a seat in the United States Senate. He had after this no further political aspirations. His methods were too open, frank and manly to ensure for him a continuance of political favor. He disdained the evasions and tricks of the ordinary public man, and was outspoken upon all questions affecting the public good.

After the close of his term as Governor, he returned to the practice of law in Pulaski, in 1875, but was, in November, 1876, solicited by Thomas A. Scott to take charge of the Texas & Pacific Railway, then projected as a trans-continental route across the State of Texas.

The capitalists connected with the enterprise recognized the necessity of having a Southern man, of broad intelligence and financial integrity, to aid them in accomplishing their project, and they found such a man in John C. Brown, who entered heart and soul into the enterprise, and by his sagacity, observation and experience pushed it to success. He was made Vice-President of the Company, and placed virtually in charge, not only of its construction and equipment, which was a difficult task, but also of its interests before Congress and the State of Texas. In Washington three successive terms, his duties before Congress and its committees were onerous, varied and difficult. Prominent among his active antagonists was C. P. Huntington. In the interest of his company Mr. Brown made many legal arguments remarkable for their broad scope, ability and eloquence. It was for him a favorite field, calling at the same time for his extensive legal information and his sound business qualities and broad views of public policy. He was a

man of great personal magnetism, and his earnestness, ability and readiness never failed to impress his audience with the strength of his position and the force of his contention. Not only were these arguments made with great force before Congress, but they were pressed with still more and greater effect before the Legislature of Texas and the various commercial and industrial bodies at New Orleans, St. Louis, Memphis, and other Southern centers. In all these localities Governor Brown had an extensive acquaintance and was popular, and his uncompromising views of financial honesty and policy made him a power among the monied men of the East, who trusted him implicitly.

It was, at that date, a task to smooth over the asperities of the war and to bring the North, and South, and East, and West together upon a basis of mutual confidence and trust.

In 1880 Jay Gould acquired the Southern Pacific Railway, but continued Governor Brown in charge of the property under the same confidential relations as had existed between him and Mr. Scott. Not only so, but so profoundly impressed was Mr. Gould with Brown's strong practical sense, broad views, extensive legal information, his unswerving integrity and personal worth that, in 1881, he was urged to accept the position of General Solicitor for the system of Gould roads west of the Mississippi, including the Missouri Pacific, the Missouri, Kansas & Texas, the Iron Mountain, the Texas & Pacific, the New Orleans & Pacific, and the International & Great Northern Railroad.

It was in this position that his legal attainments found full scope, and during the four years that he

spent in charge of the legal department of this system, he did a work which can never be forgotten, although never fully known or appreciated. To conduct successfully the affairs of his new position required not only business qualifications of the highest order, but extensive legal acquirements and a familiarity with the general and local laws of nearly all the States West of the Mississippi River, as well as the Federal Statutes and decisions bearing upon corporations generally, and especially the corporations with which he was connected. It was a position fitted to his talents, requiring boldness, discretion, broadness of view, with the minutest attention to detail; an intimate and extensive knowledge of human character and nature. The laws of Missouri, Kansas, Texas, Louisiana, the Indian Territory, and other States and Territories through which the system passed, were as familiar to him as those of his native State, and out of them all he wove a system that was remarkable. His opinions and utterances received and commanded the unbounded confidence of his associates and opponents.

In 1885 he was appointed Receiver of the Texas Pacific Railway by the Circuit Court of the United States at the instance of the holders of its bonds, and while in his hands, as Receiver, it was practically rebuilt. In 1888 he was elected its President, and in 1889, desiring to return to his native State, he was elected President of the Tennessee Coal and Iron Company, the largest industrial corporation in the South.

He died in August, 1889, at Red Boiling Springs, Macon County, Tennessee, and was buried at Pulaski, in the midst of the people he loved so well and who

honored him so highly. A life-size statue of Italian marble stands upon a granite pedestal in Maplewood Cemetery, presenting a life-like representative figure as he appeared in uniform, with his hand upon his sword, and his gaze turned toward the South.

Josephus Conn Guild was born in Pittsylvania County, Virginia, December 14, 1802, and died in Nashville, Tennessee, January 8, 1883. When he was two years old the family moved to Houston County, Tennessee, where they lived until 1810, when they removed to Sumner County.

It seems that the subject of this sketch advanced in his academic course far enough to begin the study of the classics. In after life he was zealous in building on the foundation thus laid. In 1821 he entered the law office of Foster & Brown, at Nashville.

At this period of his life he formed a lasting friendship with Balie Peyton. The two had many tastes in common. Particularly did they agree in love of fine horses and of horse racing. This last was a favorite diversion of the time in the profession and out of it. Many anecdotes of the achievements of the two friends upon the race course have been preserved in Judge Guild's book, and by his contemporaries.

Guild was a Democrat of the most pronounced and aggressive type. In 1852 he was one of the Democratic candidates for Elector for the State at large, and made a canvass against William T. Haskell. He was always interested in politics and a strong partisan, but held no political office, except that he was four times elected to the Legislature, three times to the House and once to the Senate.

He was an enthusiastic supporter of the policy of

internal improvements, and is said to have introduced into the House the bill of 1852.

In 1836 he enlisted for the Seminole war and was made Lieutenant-Colonel of the regiment commanded by William Trousdale. Colonel Guild made an admirable record as a soldier, and was highly esteemed by the officers and the men of his regiment.

In 1859 he was elected Chancellor of the Division composed of the Counties of Sumner, Robertson and Montgomery. The war brought his term as Chancellor to a premature close, but not before he had proved himself eminently qualified for the office. He was a good lawyer, but above all he was blessed with practical sense and the desire to do right. He was a sympathetic man, and always on the lookout for equities.

About the close of the war Judge Guild moved to Nashville, where he conducted a successful practice until 1870, when he was elected Judge of the newly-formed Law Court of that city. In 1877 this Court was abolished, because it had accomplished the purpose for which it had been created, and Judge Guild returned to the practice.

In 1878 he published a book of five hundred pages, called "Old Times in Tennessee." This book is one of the most valuable of its kind. There are some inaccuracies of dates in it, but it contains many vivid and truthful pictures of men of past generations, and of the habits and customs of the times of which it treats.

Judge Guild was thoroughly a man of the people, and was always popular. Strong partisan as he was, he never failed to poll more than his party vote in any of his contests for office. As a Judge, especially dur-

ing his second service, he was perhaps too much addicted to the humor for which he was noted in private life. His sense of humor was highly developed, and his repertory of anecdotes inexhaustible. The Tennessee Reports show that for many years he had a large practice.

One of the noteworthy members of the Knoxville bar in the period immediately preceding the war was **William-Henry Sneed**—the given name being a compound one.

There is in existence a letter written more than thirty years ago by Mr. Sneed to Henry Winter Davis, with whom he had served in Congress, in which, referring to the subject of criminal practice, he says that he had always refused to accept a fee for prosecuting a criminal for the reason that he believed that the duty should be performed by a disinterested attorney, paid by the State, and free from personal bias.

This is a very pleasing manifestation of a high sense of justice and of professional propriety. There may be room for argument of the question, but it would appear that the right is with Mr. Sneed. The specially employed attorney is likely to be more insistent than the ends of justice demand, and is not expected to be disinterested. Undoubtedly the true theory of public prosecutions is that the public interests alone shall be served, without regard to personal wishes or resentments.

The sentiments expressed in this letter were characteristic of Mr. Sneed. He belonged to the old-fashioned school of men that had strong convictions and adhered to them, not yielding to utility or the desire for present gains.

William-Henry Sneed was born in Davidson County, Tennessee, August 29, 1812. At some time between that date and 1832, his father, who was a farmer, removed his family to Rutherford County. The father is described as a man of intelligence, of strong character and of thrift. He did not send his son to college, but gave him unusual advantages by employing competent private teachers, who trained him thoroughly in all the branches then taught in our higher educational institutions.

Having been fond of reading, and of a studious turn from his childhood, he now determined to study law, and in the Spring of 1834 entered the office of Charles Ready, at Murfreesboro. In 1839 he formed a partnership with Judge Charles Ready, who held him in the highest esteem and regarded him as exceptionally qualified for the law. This partnership lasted till the Fall of 1843, when Mr. Sneed was elected to the State Senate from Williamson and Rutherford Counties. At the end of the legislative session he moved to Greeneville, in East Tennessee, having in the meantime married the only daughter of Dr. Alexander Williams, of that place.

He now formed a partnership with R. J. McKinney, and practiced for about a year in the Courts of that Circuit. In 1845 he moved to Knoxville, where he conducted an unusually successful practice until the beginning of the war. He was a competent man of affairs as well as a strong lawyer, and succeeded in acquiring a valuable estate. He was enterprising and full of public spirit, and did much to encourage the growth of Knoxville.

In 1855 he was elected to Congress from the Knox-

ville District as a Whig, defeating David B. Cummings.

He was a candidate for the supreme bench against Judge McKinney, and was defeated by a very small majority.

In Congress he served with special distinction and attracted many friends.

Like many other prominent Whigs, he was at the outset of the secession agitation a pronounced Union man. He made many strong speeches, declaring his devotion to the Union and opposition to secession. At the same time he said, however, that if the State should decide to go out of the Union, he would go with her. He was not a man of half measures, and therefore when the secession ordinance had been passed, he gave his allegiance to the Confederacy and became one of its staunchest supporters, and his ability made him conspicuous in the events of the time. He was a just and humane man, although strong in conviction and positive in conduct. Having had access to some of his private papers, the writer is convinced that his motives and conduct during the war were often misconstrued by his political adversaries. That the policy of the Confederate government in East Tennessee, in 1861 and 1862, was severe may be admitted. It is probably true also that the severities of the administration were in some measure promoted by extreme and unwise local politicians, but that Mr. Sneed was not the friend of this policy, as his enemies insisted at the time, can be proved. There were instances in which he encountered personal danger in the effort to protect Union men.

When Burnside occupied Knoxville, Mr. Sneed re-

moved with his family to Virginia, and resided at Liberty, in that State, until after the surrender. Returning to Knoxville as soon as conditions permitted, he resumed the practice of law, but his financial condition relieved him of the necessity of hard work. He died September 18, 1869.

Like all who actively participated in the affairs of the war, he incurred many enmities, but even by his adversaries his integrity was never denied.

Mr. Sneed was a man of unusual force of character and ability, and of high social standing, and was therefore one of the most efficient supporters of the Confederacy in East Tennessee. His sincerity cannot be questioned. He acted upon conviction, without reservation and without malice.

As a lawyer he was exceptionally successful. It is said by those who knew him at the bar, that he was painstaking and laborious, and gave his cases the most careful preparation. He is said to have excelled especially as a Chancery pleader and practitioner. Beyond question he was one of the best lawyers and one of the ablest men of his time in Tennessee. His son, Joseph W. Sneed, was formerly Judge of the Criminal Court of Knox County, and is now the Judge of the Circuit Court of that County.

Memorial resolutions of the bar of the Supreme Court, on the death of Mr. Sneed, are appended to 6th Coldwell.

Thomas Clark Lyon was born in Roane County, Tennessee, December 10, 1810, and was educated at East Tennessee University under Dr. Charles Coffin, graduating in 1839. His graduating address was an original poem, which, according to the writer of the

memorial resolves printed in 6th Heiskell, "was esteemed by the large audience present, and the best critics of that day, a most excellent and creditable production."

As soon as he had graduated he began to prepare for the bar. Not long after he had secured his license, he seems to have enlisted in the United States army. The account given at the bar memorial meeting is in the following words: "Before he had fully entered upon the practice of his profession, there being a call for volunteers, he became a soldier in the army of the United States, and was elected Lieutenant of the company to which he belonged. Upon the recommendation of General Richard G. Dunlap, commanding his brigade, he was appointed Aide, with the rank of Major, to General John E. Wool, the Commander-in-Chief, and so ably and faithfully did he discharge his duties, that this distinguished General became his devoted friend and ardent admirer during life."

This is all true no doubt, and is well enough for the purposes of deserved eulogy, but is very indefinite as to dates and facts. It is clear, however, that Major Lyon belonged to the volunteer force that was raised in 1836, in East Tennessee, for service in the Florida war. Richard G. Dunlap commanded a brigade of these troops, and Wool was in charge of the entire force. They were not sent to Florida, but were retained in East Tennessee to assist in the removal of the Cherokees West of the Mississippi River.

The account quoted from above continues: "He was trained to the most considerate recognition of the rights and feelings of others, so that during a professional career of thirty years we venture to say no one

can recall an instance of his using a term offensive to the bench or to any member of the bar. His honor was sacred in the practice of his profession as in the avocations of life. A member of the bar and bench said of him: 'So faithfully and liberally did he fulfill his promises, that he never considered it necessary to have recorded any agreement he might make.' "

He was frequently called upon to act as Special Judge of the Supreme Court, and his opinions are among the very best to be found in our State Reports. He had, in an eminent degree, every qualification necessary for a good Judge. Being a man of unbounded courtesy and of the most attractive manners, he was a great favorite among the ladies, but died a bachelor. In early life he was greatly attached to a lady to whom he would have been married in a few days but for her untimely death. He remained faithful to her memory.

In the year 1864 he left Tennessee and went to Richmond, Virginia, with the purpose of offering his services to the Confederate government. On the way he was attacked by disease, and died October 1, 1864, very soon after reaching Richmond.

He was an accomplished linguist, and a man of broad and accurate scholarship, with decided tastes for literature, and more especially for poetry and poetical composition. All accounts make him a charitable and just man, and a lawyer not surpassed in learning and ability in his time in East Tennessee. Indeed, it is probable that of all the lawyers of East Tennessee, Judge Lyon was first in the estimation of the generation to which he belonged. It is not said that he was an eloquent or accomplished public speaker, or that he attempted anything beyond plain and direct argument.

He seems to have been adapted by nature to the law, and to have been a close and diligent student. He was purely a lawyer. His general scholarship was a matter of pleasure, and all the serious work of his life was given exclusively to the profession.

Mr. Lyon was an ideal lawyer and brought honor to the profession. His accomplishments and abilities commanded the respect and admiration of the bench and of the bar, and his rare and admirable qualities as a man attracted universal esteem and confidence.

Connally F. Trigg, the fourth in succession of the United States District Judges for Tennessee, was born in Abingdon, Virginia, March 8, 1810. He was of an old and honorable family, of excellent position in that cultured community.

In 1833 he entered upon the practice of law at Abingdon, where he lived until 1856, when he moved to Knoxville, Tennessee. He had risen to a high place at the bar of Abingdon, which has always abounded in strong lawyers.

Coming to the Knoxville bar with this excellent reputation, he was cordially received, and was quickly successful, and when the war began was regarded as one of the best lawyers in East Tennessee. It is said that he was not so studious as many of his associates, but his natural abilities were excellent, and his personality very attractive. He was of kindly and cordial temper, and made friends and retained them.

He was one of the leaders of the Union Party in East Tennessee, and was outspoken in his opinions. The courage and decision that he displayed in the early stages of the war won the confidence and admiration of the Union Party, and his appointment to the

Federal bench by Mr. Lincoln, in July, 1862, gave great satisfaction.

Judge Trigg's courage and integrity were finely displayed in his course in the famous test oath cases, and in the multitude of treason cases.

The Test Oath Act would, if sustained, have prevented a large majority of the lawyers of Tennessee from practicing. Judge Trigg was the first Federal Judge to declare it unconstitutional. The treason cases were the results of the bitter feeling engendered by the war, and the spirit which prompted them would have carried the successful party to most unfortunate lengths, if it had not been checked. Judge Trigg had been among the most pronounced of the Union men, but resentment and malice had no place in his heart, and he soon came to be recognized as one of the leaders of conservative sentiment.

He remained upon the bench until his death, which occurred at Bristol, April 25, 1880.

Much of his time as Judge was taken up in the administration of the Federal revenue Statutes. A more unpleasant duty could not have been imposed, and he did not enjoy it. Some said that his kindness of heart led him to be too lenient with the unfortunate, and generally, ignorant men who were constantly infringing the severe revenue laws. It is true that Judge Trigg did often temper justice with mercy in such cases, but not at the expense of duty, nor to the detriment of public interests.

The qualities displayed by Judge Trigg in the administration of his high and powerful office, just after the war, cannot be too much commended. They were essentially characteristic. He was by nature just and

generous. Moreover, he possessed the faculty of seeing both sides of a question. Strong in his convictions, and fearless in pursuing them, he was not a partisan to the extent of allowing his political judgments or prejudices to influence his judicial conduct. He treated fairly all men of all parties, and the Confederate soldier or sympathizer, while never unduly favored, was always sure to be fairly treated in his Court. Even they who were the most extreme Union men of that time, must remember thankfully the fact that this fair and impartial Judge, a member of their own party, was brave enough and just enough to curb the prejudices and passions that were natural at such a time, but that occasionally prompted to injustice and oppression. For this especially, all men of all parties should remember Judge Trigg in honor and in gratitude.

James W. Deaderick was born at Jonesboro, Tennessee, November 12, 1812. His father was from Virginia, and had served in the Revolutionary war. His mother was from Delaware, and was a sister of Joseph Anderson, Judge of the Territorial Court and Senator from Tennessee. James W. Deaderick attended East Tennessee College, which is now the University of Tennessee, for awhile, but did not graduate. He married Adelinc, daughter of Ephraim McDowell, and a grand-daughter of Governor Isaac Shelby.

Judge Deaderick began life by farming and keeping a store at Cheek's Cross Roads, in Jefferson County, Tennessee. He failed in business, probably on account of the general financial depression of 1837, and his too great liberality in becoming surety for friends. For a time after this he resided in Iowa as an Indian Agent, by appointment of President Tyler, and then

returned to Jonesboro and began the study of law under Judge S. J. W. Lucky. He was admitted to the bar in 1844, when he was thirty-two years of age. He was in no respect a brilliant man, but his abilities were good, his industry exceptional, and his integrity was universally recognized. He did not make his way rapidly in the profession, but by perseverance and hard work, gradually achieved an honorable position. Having been a student and a reader from his youth, his knowledge of general literature when he entered the profession was large. He did not seek business, holding, as every honorable lawyer ought to hold, that it was unworthy and unprofessional to solicit employment.

In 1851-1852 he was in the State Senate, and served as Chairman of the Committee on Internal Improvements. He was an advocate of State aid to railroads. In the Presidential election of 1860 he was a Bell and Everett Elector for the First District, but when the State seceded he accepted the result and was loyal to the Confederacy throughout the war. In 1870, when the judiciary of the State was re-organized, he was elected one of the Judges of the Supreme Court from East Tennessee, and was re-elected in 1878 for the State at large. Upon the death of Judge Nicholson, in 1876, he was elected Chief Justice of the Court, and held that position till his retirement from the bench in 1886. He was a good man, and a good lawyer and a competent Judge.

There was no pretense of superior learning in his opinions. They were always written, and were generally short and without much citation of authority. He did not disregard the written law, but did not believe,

upon the other hand, that what had been written should prevail against manifest justice. He was thoroughly honest and just as a man, as a lawyer and as a Judge. On account of his extreme age he did not seek the re-nomination for a third term, but retired to his home in Jonesboro, where he died October 8, 1890.

His career shows the value of industry, of perseverance, of integrity. Entering the profession late in life, by ability and the most faithful work, he rose first to a position of leadership at the bar of East Tennessee, and finally to the highest and most honorable office in the State.

Thomas J. Freeman was born in Gibson County, Tennessee, July 19, 1827, and died at Dallas, Texas, September 16, 1891.

He was educated in the schools of his neighborhood, but did not attend college. Having studied law, he was admitted to the bar, probably in 1848, and practiced at Trenton until the war began. Taking sides with the South, he enlisted in the Confederate army, and soon afterwards was elected Colonel of the Twenty-second Tennessee Regiment. At the battle of Shiloh he was severely wounded, and for a long time disabled. Returning to the field after his recovery, he was attached to Forrest's command, and served under that brilliant leader to the end of the war.

After the war he took up his residence at Brownsville, where the Supreme Court then sat for the Western Division of the State. He was soon recognized as one of the foremost lawyers of West Tennessee, and the suggestion of his name for the supreme bench under the new Constitution of 1870 was

promptly approved. He was nominated and elected in 1870, and re-elected in 1878.

Failing of a nomination in 1886, he returned to the bar, but like all retired Judges, found himself unfitted for the active practice. When the law department of the University of Tennessee was established in 1889, he was placed in charge of it. This has now become a successful school, but Judge Freeman's health did not permit him to reap the rewards of his zealous and efficient work in organizing it. He was compelled to give up his place and to seek the restoration of his health in the milder climate of Texas.

The Supreme Court of 1870 found its hands very full. Naturally enough, it began by undoing a good deal that had been done by its immediate predecessor.

It is frequently said that it found its hardest work in construing the new Constitution, but this is not an accurate statement. It is true that many questions of constitutional law came before it, but the difficulty was not in construing the new Constitution, which was practically identical with the old one, but in applying established principles of constitutional construction to changed conditions. The Court would have met the same difficulties in this branch of the law if the Constitution of 1834 had been retained in name as it was in substance.

This does not alter the fact, however, that the Court of 1870 was called to pass upon many difficult questions of constitutional law, nor does it detract in any measure from the value of its work. This branch of the law was especially attractive to Judge Freeman, whose mind was of a philosophic cast. Generally he was for strict construction, and always he was positive in his

opinions and firm in his positions. The consideration of these large and broad questions gave him delight. He wrote upon them with zest and force, with much learning, ingenuity and justice. His opinions did not always prevail in the Court, and when they did not he usually dissented. He was more frequently, and as a rule more forcibly dissentient than any other of our Judges. It is strange, perhaps, but it is true, that in nothing did Judge Freeman command the approval of the bar more than in his dissenting opinions. Probably opposition aroused and quickened his faculties. At all events, his dissents were unfailingly vigorous, and not infrequently convincing.

Dr. Johnson would have said of Judge Freeman that his "literature was large." He read much in history, philosophy, poetry and fiction, and was fond of conversing upon literary topics.

The State is much indebted to him for faithful and valuable service, and he will always rank among her best Judges.

Robert McFarland was born in Jefferson County, Tennessee, April 15, 1832. He was the son of Colonel Robert McFarland, who served as a Lieutenant in the regular army of the United States during the war of 1812.

The family was Scotch, Presbyterian, and Whig. The first of the Tennessee McFarlands, the grandfather of the Judge, was also named Robert. He came to Tennessee from Virginia in very early times, was a noted Indian fighter, and was the first Sheriff of Jefferson County. Judge McFarland's mother was Miss Scott, of Jefferson County, who was of Scotch-Irish descent.

As a boy, McFarland gave no promise of distinction, but was quiet, unobtrusive, somewhat melancholy and apparently indifferent, if not indolent. His education was such as the old field schools of the time offered, supplemented by a brief term at Tusculum College. His occupation was not of his own choosing, but was selected for him by his family, and strangely enough the choice was a happy one.

Being thus directed to the law, he entered upon his studies at the age of nineteen, in the office of his brother-in-law, the elder Judge Barton, at Greeneville. Securing a license in 1854, he entered upon the practice in Greene and adjoining counties. He was for a time in partnership with Robert Johnson, son of Andrew Johnson, and later with Judge Barton and Montgomery Thornburgh. In 1859 he married Miss Jennie Baker, of Greeneville.

After his marriage he removed to Dandridge, in Jefferson County. When the war began, he sided with the South, and entered the Confederate army as a volunteer in the latter part of 1861. He rose to the rank of Major in the Thirty-first Tennessee Regiment. Major McFarland was with his regiment in Bragg's Kentucky campaign, in the defense of Vicksburg, and later in Early's unfortunate campaigning in the Valley of Virginia. He was a conspicuously gallant soldier.

Returning home after the war, he found his position one of difficulty and of danger. The feeling against "rebels" was intense, and probably he could not have remained but for the support of a few Union friends, foremost among whom was J. M. Thornburgh, who had served through the war as a Colonel in the Federal army, and was a man not only of ability and promi-

ence, but of unsurpassed liberality of sentiment and devotion to his friends. Thus upheld, Major McFarland remained in his former home, and ere long the war prejudices subsided and gave him no more trouble. He now formed a partnership in Greene County with Robert M. McKee, and in other counties with his friend, J. M. Thornburgh.

During the administration of Governor Senter, he was occasionally called to fill temporary vacancies on the supreme bench, and thus had opportunity to display that wonderful clearness of vision and judgment for which he afterwards was noted.

On the resignation of Judge Thomas A. R. Nelson, in 1871, Governor Brown appointed McFarland to the vacancy. The remaining members of the Supreme Court are said to have petitioned for his appointment after the place had been declined by Judge James T. Shields. In August, 1872, Judge McFarland was elected by the people, and was again elected in 1878 for the full term ending in 1886. He died October 2, 1884.

As a Judge he has never had a superior in Tennessee. He was not an exceptionally learned lawyer. In knowledge of the written law he was far behind his great associate, Judge William F. Cooper. He was less learned than Reese, or Haywood, but one is tempted to say that he had judicial genius. His mind was perfectly balanced, his judgment almost infallible. His eulogists say that he was painstaking and laborious, and it is true, but the real source of his greatness as a Judge was the clearness of vision that he had by nature. In his opinions there is comparatively little citation of authority, and his conclusions were reached

with but little use of authority. That he was thoroughly learned in the law, had mastered its principles, is necessarily true. But the excellence of his decisions consists not in learning, but in justice. His mind and character were pure. He had but one purpose, and that was to do justice. Knowing the law as a science, he applied its principles with unerring judgment. The law is often artificial, but justice, never. McFarland's opinions are satisfactory and convincing because they accord with the natural sense of justice and of right.

In personal character, Judge McFarland was strong and pure. He lived always upon a high plane. The religious quality of his race was strong in him. Always modest and even diffident, he was not more sensitive for himself than for others. His manners were simple, and courtesy was a quality of his nature.

In appearance he was not imposing; his figure was slender and slightly stooped. His face did not give the impression of strength; the forehead was high and full, but the chin was narrow and not prominent. His head was that of a thinker, a philosopher—an idealist. The intellectual and moral qualities predominated in him, and this was indicated by his head and face.

He died bravely and serenely, as a Christian man, saying to the sorrowing company about his death-bed: "It is as natural to die as it is to be born."

John C. Burch, one of the most intellectual and brilliant men in the recent history of this State, exerted a positive influence upon the policy of Tennessee from the beginning of the secession troubles to the end of the reconstruction period. He is entitled to be honorably remembered on account of his exceptional personal qualities and his valuable services.

He was a native of the State of Georgia, and the son of Morton N. Burch, a prominent citizen of that State, many times a member of its Legislature. His mother, Mary Ballard Burch, was a woman of culture and of high social position. It is to be inferred that the family was in good circumstances, and it is clear that the parents were alive to the importance of education, for after their son had received such instruction as the schools of his native State afforded, he was sent to Yale College, in 1843, and graduated there with distinction in 1847.

Selecting the profession of the law, he obtained a license and practiced for three years in Georgia. In 1852 he moved to Chattanooga, Tennessee. He was an accomplished and effective public speaker, and early displayed aptitude for political management and organization. He therefore speedily became prominent in the Democratic party, and in 1855 was elected to the House of Representatives in the Tennessee Legislature. In 1857 he was elected to the State Senate, and became Speaker of that body.

In the Legislature he was distinguished for boldness and decision, but was always courteous and considerate. The energy of his character led him to take an active part in the discussion of every important question, and he became widely known as one of the strongest debaters and most accomplished parliamentarians in the State. Like many other lawyers of ability and of ambition, and with a taste for public affairs, he found himself gradually drawn from the law into politics, and in 1859 accepted the position of editor of the Nashville Union and American, the most influential Democratic paper in Tennessee. As might be

inferred from his antecedents, he was intensely Southern in sentiment, and belonged to that wing of the Democratic party which held the most positive State's right opinions. These opinions he advocated with unsurpassed persistence and vigor.

In the great canvass of 1860, his paper strenuously supported the Southern cause, and by its ability won the respect of men of all parties. It was a positive and a potent influence. Following his opinions to their conclusion, Mr. Burch entered the Confederate army in 1861, and served first on the staff of General Pillow, afterwards on the staff of General N. B. Forrest, and finally on that of General Withers. He was a brave, energetic and useful soldier, and his war record was altogether creditable. He served from 1861 to 1865.

At the close of the war he returned to Nashville and resumed the practice of the law, but in 1869 purchased a controlling interest in the Union and American, and again became its chief editor. In this position he continued until 1873, when he was appointed by Governor John C. Brown to the office of Comptroller of the State Treasury. In this office, as in every other that he held, he was zealous, efficient and faithful, proving that in addition to his scholarly accomplishments, he possessed unusual practical abilities.

In March, 1879, when the Democrats were in control of the United States Senate, he was elected Secretary of that body, and took up his residence for the time in Washington. He was an exceedingly attractive man personally, and quickly became influential and popular in Washington. It is stated that he was upon terms of intimacy especially with James G. Blaine and Allen G. Thurman, and that on matters of personal

conduct he was frequently consulted by Mr. Blaine, despite their positive political differences. It is probable that no man ever held the office of Secretary of the Senate who was more popular, or more influential among the Senators, or who exercised so large a social and political influence. The position is one of dignity and honor, but it was generally felt in Washington that a man of his ability was entitled to a more distinguished position.

The extent of Mr. Burch's influence in Tennessee was never more clearly demonstrated than in 1872, when the Democratic party of the State, and of the nation, was confronted by the difficult question whether or not it would recognize and adopt the nomination of Greeley and Brown, the liberal Republican candidates for President and Vice-President. The following extract from a speech made by him at the Democratic National Convention, at Baltimore, in that year, will clearly explain his position, and will recall the action of the Democrats of Tennessee. He said: "In less than a week after the nomination of Horace Greeley and Gratz Brown, at Cincinnati, the Democracy of Tennessee assembled in convention, there was doubt and hesitation running throughout the Union as to what should be the course of Democracy, when Tennessee Democracy, deriving inspiration from the tomb of the Hermitage, took the responsibility of declaring that it was the high duty of every patriot in the land to support the Cincinnati ticket. Tennessee was the first to clasp the hand extended at Cincinnati. Tennessee, who has given three Presidents to the Union, gives her twenty-four votes for Horace Greeley, of New York. And I desire to say to the gentlemen

from Missouri and the gentlemen from New York, that as Tennessee was the first to put this ball in motion, she proposes to enter the contest with them and give the candidates of this convention a larger majority than either New York or Missouri."

In the Tilden-Hayes contest of 1876, he was perhaps more active than any other Democrat in Tennessee. He had supported Mr. Hendricks for the Presidential nomination at the National Convention, and was his personal friend. After the election, and during the contest, his great interest and zeal induced him to go to the State of Louisiana, where he remained for some time actively assisting the Democrats in their efforts to make out their case. He was afterwards in Washington during the trial before the Electoral Commission, and was a trusted adviser of the Democratic managers.

As an editor he maintained the highest standard of professional ethics, but never left room for doubt as to his sentiments or his policy. He was an exceedingly graceful and forcible writer, and has hardly been surpassed in editorial work in the history of Tennessee journalism. His training had been in the old school of editorial writers, and in the conduct of his paper he gave attention chiefly to the editorial department. He was fully alive to the importance of having a satisfactory newspaper, but believed that the paper should have an individuality which should be manifest in its editorial columns. He is, therefore, more accurately described as an editor than as a newspaper man, although his paper was in its time, in all respects, the most influential and the most widely circulated in the State. His editorials and his speeches were uniformly

correct, rich and forcible in diction, displaying his classical and general scholarship without ostentation.

The author is permitted to quote Henry Watterson as saying that he has never known a man of finer political judgment than Colonel Burch. He says: "His judgment in public and party affairs, that is, in estimating political forces and in foreseeing probable events, was well nigh infallible." A distinguished lawyer, who knew Colonel Burch intimately, said recently, in homely phrase: "John Burch had a great big intellect."

Colonel Burch died in Washington during his term of office as Secretary of the United States Senate, July 28, 1881.

John Conaway Gaut was born in Jefferson County, Tennessee, February 27, 1813. His grandfather was a native of Scotland, and emigrated to America, where he proved, as many of his compatriots did, the Scotch capacity to rear a large family. James Gaut, the father of John C. Gaut, was one of thirteen children, all remarkable for longevity and other sturdy qualities of the Covenanter stock. In 1821 James Gaut left his ancestral home on the French Broad River, near Dandridge, and moved to McMinn County, Tennessee. This last region had been opened to settlers only about a year. It was a part of the Hiawassee district from which the Indians were removed in 1820. The county had no court-house, there was not a brick chimney within its borders, very little land was cleared, and the conditions were in all respects rude and primitive.

James Gaut was a small farmer and needed the help of his son, John Conaway, in supporting a family in which there were eight younger children. The life

was one of hardship and self-denial, and though calculated to develop character, had few pleasures.

What primary schooling young Gaut had it is impossible to say. That he possessed the "rudiments" before attaining his majority is known, because soon after reaching the age of twenty-one, he entered an academy at Athens. He afterwards attended for a time the College at Maryville, then under the Presidency of the great Dr. Isaac Anderson, and later still, the University at Knoxville. His name is not in the list of graduates of the University.

In 1837 he began the study of law at Athens, in the office of Spencer Jarnagin, in company with two other students, one of whom was John M. Lea, who has been for many years widely and favorably known in Tennessee.

The removal of the Cherokee Indians to the West, which occurred about this time, opened new and neighboring territory to settlement and to litigation. In the rich harvest thus accruing to the profession, Judge Gaut had a full share, and the practice then acquired made him one of the best land lawyers in East Tennessee, the normal habitat of the land lawyer.

In 1853 he was elected by the Legislature to succeed Charles F. Keith as Circuit Judge. After the amendment of the Constitution, he was elected to the same office by the people, although he was a Whig, and the Democrats were in the majority in the Circuit.

In 1862 he was re-elected, and held the office until 1865, when he resigned and moved to Nashville, where he afterwards formed a partnership with Judge Robert L. Caruthers.

He was a Whig before the war and an earnest Union

man. A majority of the Whig leaders went with the mighty tide of opinion that swept Tennessee out of the Union in 1861, but Judge Gaut was tenacious of his opinion, and remained a Union man. He was in the self-constituted Convention of 1865, which amended the State Constitution, but disapproved the course of his associates. He was on the committee which reported the schedule, but filed a minority report, in which he said: "I object to making the Constitution and referring it to the people without a convention, and I object to the disfranchisement to the extent provided for."

During the three succeeding years he earnestly and vigorously antagonized the radical policy of the dominant party, and was for a time the Chairman of the Democratic State Executive Committee.

While he resided in East Tennessee before the war, the era of public improvements occurred, and he became one of the active promoters of the East Tennessee and Georgia Railroad, which connected Knoxville and Chattanooga.

He died July 4, 1895.

A. S. Colyar, writing of Judge Gaut, says: "He had been on the bench but a short time before his reputation as a Judge reached every part of the State. As a common law lawyer, on the bench, he ranked with 'Lige' Walker and Marchbanks, which is saying a good deal."

CHAPTER XI.

The Reconstruction Court—George Andrews—Sam Milligan—Landon C. Haynes—John A. Gardner—Isham G. Harris—A. S. Marks—J. B. Palmer.

To write of any aspect of the history of Tennessee during the reconstruction period, extending from 1862 to 1870, is a difficult and invidious task. In none of the other seceding States was there so much division of sentiment as in Tennessee. In Middle and West Tennessee the people had generally espoused the cause of the Confederacy, though many prominent families of Middle Tennessee, and several sections of West Tennessee, as for instance Carroll County and neighboring districts, had remained loyal to the Union. East Tennessee was, by an overwhelming majority, for the Union, and the secession of the State was accomplished by the votes of the other divisions. In the early part of the war, when the Confederacy controlled the State, its policy toward the loyalists had been severe, as all war policies are, and when the Federals in turn were in power, their course was not infrequently marked by measures of retaliation. The severities exercised by each side in its turn, were the natural results of existing conditions. The impartial historian must declare that not all the right was on either side.

The Supreme Court of reconstruction times has been severely judged. Sweeping charges of incompe-

tency and unfairness have been made freely against its members, and its opinions have been treated too often as unworthy of serious attention.

The subject must be treated frankly, and therefore it must be admitted that some of the judges of this period were of comparatively inferior abilities, and probably would not, under normal conditions, have been selected for the bench; but upon the other hand, some were unusually competent, and probably none was so imperfectly qualified as to be wholly exceptional in the history of the Court.

That in certain matters this Court appears to have been partisan, must be admitted, but partisanship belongs to society in all its branches at such times. It may be said justly, that nothing can excuse partisanship in a court of justice, but only a moderate knowledge of human nature is needed to understand why this Court was influenced in certain respects by the imperative prejudices of the time, and only a moderate acquaintance with history to find parallel cases. The men who sit to administer justice are never wholly exempt from the operation of the great forces that dominate society. That they should be exempt, when those forces are misdirected, and should be absolutely impartial, no one will deny, but that they never are exempt is an indisputable fact. The reconstruction time was a trying one. The war had aroused the worst passions, engendered the bitterest prejudices everywhere. Few men of either side could be just in action or in sentiment to those of the other side.

The reconstruction Court was elected by a minority party, dominant by virtue of extraordinary conditions, and to the profound dissatisfaction of the disfranchised

majority. The Republicans of Tennessee were intensely bitter against their antagonists on account of facts already indicated, but the atmosphere of the whole country was saturated with bitterness. The people represented primarily by the Court, regarded secession as the acme of wickedness, and exasperation was kept alive by the policy of designing leaders. The pressure upon the Court was tremendous. There was an apprehension, real or simulated, that "rebellion," as it was called, was not yet put down. Everything that smacked of secession was hateful, and a widespread, though by no means universal sentiment, demanded that all "rebels" be punished. In matters relating to the general policy of its party, this Court often followed the party, but in other respects it displayed not a little of the proper judicial spirit. A distinguished Democratic lawyer was heard to say not long ago, that many cases might be cited in which this Court had been a bulwark of protection to Southern sympathizers against those who sought to oppress them. Examples of the most objectionable classes of its decisions are the cases of *Ridley vs. Sherbrook*, 3 Coldwell, 569, in which the franchise Acts of 1865 and 1866 were declared constitutional; and *Potts vs. Gray*, 3 Coldwell, 468, in which it was held that a note given for the consideration of Confederate treasury notes was illegal and void, and the Courts would not lend their active aid to enforce its collection.

It has been hard for the majority of the people of Tennessee to forgive these decisions, and others like them. Persistent partisanship might still condone the Ridley case, but for the Potts case, and all others on which there were similar holdings on Confederate con-

tracts, there would seem to be no excuse. It is impossible, however, for any except those who participated in the affairs of that troubled and unhappy time to know the pressure that was constantly upon this Court. Only they can fairly judge it who can put themselves in its place.

The present generation knows nothing, by experience or observation, of the conditions that existed in Tennessee during and just after the war. Certain phrases begotten in those ugly times, and embodying its prejudices, have come down to us. There are some absurd persons who still speak of the Southern people as "Rebels." On the other side there are a goodly number of people in Tennessee who speak of Brownlow as the Scotch Highlanders speak of Dutch William, and as the Irish Catholics speak of Cromwell.

But after all there is not much of this sentiment left on either side, and one may safely say now, that there was much that was good in the reconstruction Court, and that what we cannot approve we can pardon, admitting the while that our own judgments are not infallible.

One of the best lawyers, and one of the best men that ever lived in Tennessee, was **George Andrews**. He was a native of Vermont, and was born at Putney, December 28, 1826. His father, the Rev. Elisha D. Andrews, removed to Macomb County, Michigan, when George was fourteen years of age. The son was thoroughly educated, and having studied law began the practice in the city of Detroit. In 1856 he was married, at East Saginaw, to Miss Mary Lathrop. In 1865 he came to Knoxville, Tennessee, and opened a law office. He resided at Knoxville for the remainder

of his life. In 1868 he was appointed by Governor Brownlow to a vacancy upon the supreme bench. This office he held for two years, and his opinions prove his thorough competency as a Judge. They rank among the best in our State Reports, and are highly esteemed by the profession and the Courts.

After his retirement from the bench, he was United States District Attorney for East Tennessee. For the last twelve years of his life he was the senior member of one of the most successful law firms in Knoxville. His death occurred August 22, 1889, in the terrible accident on the Knoxville, Cumberland Gap & Louisville Railroad, in which so many valuable and prominent citizens of Knoxville lost their lives. This road had just been built, and a number of gentlemen from Knoxville were invited to make the first trip over it in cars specially provided for the occasion. Judge Andrews was included in the invitation. The train fell from a trestle, and Judge Andrews and several other members of the party were killed, or died within a few hours, while many more were terribly hurt. It was one of the saddest days in the history of Knoxville, and none of the victims of the disaster was more generally or more sincerely mourned than Judge Andrews. Memorial meetings were held by the bar, and by citizens, and the sentiments of respect and admiration expressed were the most cordial and the most sincere.

Judge Andrews was a man of extraordinary intellect and versatility. As a lawyer he was thorough to the last degree. He worked incessantly, not confining himself, however, to his cases, but reading widely in the general literature of the law. Always methodical,

he preserved in convenient form all the important results of his investigations.

He studied also, with enthusiasm, more than one branch of natural history, and his wife, a lady of culture, having similar tastes, the two enjoyed together many excursions among the hills and mountains of East Tennessee.

Judge Andrews was a member of the Board of Trustees of the University of Tennessee, and was for several years the Chairman of its Executive Committee. He was peculiarly adapted to this place, and was of great service to the University. He was a devout Christian, and a member of the Presbyterian Church.

For some years before his death, he held, probably, the first place at the Knoxville bar, and no safer or more thorough lawyer could have been found in the State. He was not an attractive speaker, and made no effort to declaim. So widely and so thoroughly learned was he in the law, however, that he was a mine of information, especially to the younger members of the bar. Whenever a young lawyer was puzzled, or was at a loss for authority, he did not fail to go to Judge Andrews. Hardly a day passed wherein an appeal for information was not made to him by some lawyer. He was always ready to help, and would stop in the midst of the most important work to answer questions or produce authorities. He had a commonplace book, which was the best law book in Knoxville. He submitted to interruption and gave assistance to others with marvelous patience and kindness.

In his practice, he upheld the highest standards of the profession. He resorted to nothing but honest effort, and any unprofessional conduct excited his in-

dignation. It need not be said that he exerted a salutary influence upon the bar of East Tennessee. He exemplified in his professional life, everything that the highest standards of the profession demand of its members.

The Milligans are of Irish origin. John Milligan came to America from Ireland, in the last century, settled first in Pennsylvania, and came thence to Virginia. The next generation came, in part, to Tennessee. Samuel, the son of John, settled in Greene County, Tennessee, where he married Sarah Reynolds. Of this union was born a second **Sam Milligan**, the subject of this sketch. It should be said that he denied the full name Samuel, and declared that he had been christened "Sam."

The elder Samuel Milligan appears to have lived in narrow circumstances, and to have been able to give his son only very limited advantages of education. At the age of sixteen, however, the young man was far enough advanced to become a teacher. In 1839 he entered Tusculum College, which, under Samuel W. Doak as President, then enjoyed an excellent reputation. In 1841, while he was in College, he was elected to the Legislature. Having completed his public services, he returned to college and graduated in 1843.

Soon after his graduation he was again elected to the Legislature. Returning from his second term in the Legislature, he began the study of law in the office of Robert J. McKinney. He was again elected to the Legislature, and having completed his law studies, was admitted to the bar at Nashville in 1845. He began the practice at Greeneville.

When war was declared against Mexico, he was

made Quartermaster with the rank of Major, and was stationed at Vera Cruz, and afterwards at Jalapa. At the close of the war he resumed his professional work. In 1849 he married Miss Elizabeth Howard, of Greenville, Tennessee.

At this time William G. Brownlow was publishing a paper at Jonesboro, called the Whig, and the Democrats of upper East Tennessee, feeling the need of an organ, established the Greeneville Spy; and Milligan became the editor. When the controversy arose, or was renewed, in regard to the boundary between Tennessee and Virginia, Milligan was one of the Commissioners from Tennessee to settle the dispute.

When the secession agitation began, he arrayed himself promptly on the side of the Union. He was a member of the well-meant but ineffective Peace Congress at Washington. Within a month after the inauguration of Mr. Lincoln, he was tendered the office of Associate Justice of the Supreme Court of the Territory of Nebraska, but declined it.

In 1864, Andrew Johnson, Military Governor of Tennessee, appointed him a Judge of the Supreme Court. He resigned in 1867, and was re-appointed by Governor Brownlow. In July, 1868, without solicitation, he was appointed a Judge of the Court of Claims at Washington, and served until his death, which occurred at Washington, April 20, 1874.

The time of his service upon the supreme bench of the State was a troubled and trying one, and, as already stated, the conduct of the Court has been severely criticised and many of its opinions overruled. From this criticism, however, Judge Milligan has been in large

measure exempt. His integrity and his ability are both conceded.

Landon Carter Haynes was born at Elizabethton, Carter County, Tennessee, December 2, 1816, and died at Memphis, Tennessee, February 17, 1875. He was named for General Landon Carter, the son of Colonel John Carter, of Watauga. He was educated at Washington College, East Tennessee, and graduated at the age of twenty, with the first honors of his class. After leaving school he read law in the office of Thomas A. R. Nelson, and was admitted to the bar in 1840.

At school he had been distinguished as a brilliant declaimer and as a polished rhetorician. Ambition and a love of public affairs were inherited traits, and his natural and cultivated powers as a speaker qualified him eminently to follow the line of his aspirations. In 1844 he was a Polk Elector in the First Congressional District. This district was, at that time, a very large one, but Haynes canvassed it thoroughly and with great benefit to his party and to his own reputation. In 1847 he was elected to the lower house of the Legislature, from a district composed of Johnson, Carter, Sullivan and Washington Counties. In 1849 he represented Hawkins, Washington and Greene Counties, and was elected Speaker of the House of Representatives.

In 1859 he became a candidate for Congress in the First District, against his law preceptor, Thomas A. R. Nelson. The canvass between these distinguished orators has been referred to in the sketch of Judge Nelson. Nelson was the older man of the two, and his name carried greater weight of reputation and ex-

perience. In addition to this, he was himself one of the most powerful and eloquent speakers the State has produced. Nevertheless, Haynes came out of the contest not only with credit, but with great increase of reputation. He was defeated, but it was justly said of him that he had proved himself a foeman worthy of the steel of his distinguished competitor.

In 1860 Haynes was a Breckenridge Elector for the State at large, and in the exciting canvass of that year, made for himself additional reputation as an eloquent speaker and a ready and effective debater. It was largely to his services in this canvass that he was indebted for his election to the Confederate Senate. This election occurred October 24, 1861. Haynes was elected for the long term with Gustavus A. Henry as his colleague. Both served to the close of the war.

After the war Haynes removed to Memphis, where he made his home and engaged in the practice of law until his death. In 1872 he was a candidate for Congress on the Democratic ticket, having received the nomination of a convention. He was defeated, and did not again seek to enter politics, although he was mentioned in connection with the United States Senatorship in 1875.

His reputation is distinctively that of a brilliant speaker. He possessed unlimited command of language, a fine voice, and a graceful delivery. He had also humor and sarcasm, both of which he made effective before juries and before popular audiences.

John A. Gardner was born in Robertson County, Tennessee, in 1809, and was educated in the common schools of his native county. In 1827 he removed to Paris, in West Tennessee, where for some time he con-

ducted a newspaper known as the West Tennessean. Having studied law, he obtained a license in 1829, and opened an office at Dresden.

In 1841 he was elected to the State Senate without opposition. The Democrats had a majority of one in the Senate, and the Whigs a majority of three in the House. Two United States Senators were to be elected, and it had been the custom up to that time, as it has been since, for the two houses to meet in joint session to elect Senators. If that custom had been followed, the Whigs would have been able to elect both Senators. But the Democratic majority in the Senate refused to meet the Whig majority in the House, and was persuaded to that course very largely by a strong legal argument made by Senator Gardner. It is said that Judge Catron was present when Gardner made his argument, and declared its conclusions to be irresistible. The Democrats controlling the Senate proposed to the House that each party elect a Senator, but the proposition was declined, and Tennessee remained until 1843 without representation in the Senate.

Mr. Gardner was re-elected to the State Senate in 1843, and again in 1845. In the Legislature of 1845 the Senate was composed of thirteen Democrats and twelve Whigs. Gardner was the Democratic nominee for Speaker, but on account of the intense opposition of the Whigs, was unable to secure more than twelve votes. He therefore withdrew from the race, and nominated Harvey M. Watterson, who received the votes of the Democrats and of one Whig, and was elected.

In 1847 Gardner became a candidate for Congress,

although his district had a Whig majority of twenty-five hundred. His Whig competitor was the incomparable orator, William T. Haskell, who had then just returned from the Mexican war. Haskell was elected, but Gardner succeeded in reducing the majority nearly one-half.

In 1848 he was District Elector for Cass. Soon after the close of this canvass, he formed a partnership with Emerson Etheridge, who had read law with him and who had resided in his family.

In his efforts to secure stock for the Nashville & Northwestern Railroad, Gardner was active and successful, and was elected the first President of the Company, and was several times re-elected. In 1856 he voluntarily retired from the position and resumed the practice of law in connection with his son-in-law, W. P. Caldwell, who has since the war been twice a member of Congress, and who is at present one of the prominent men of West Tennessee.

In 1870 Mr. Gardner was elected to the Constitutional Convention from Weakley County, and served as Chairman of the Committee on Finance and Taxation. In 1878 he was nominated and elected to represent Weakley County in the lower house of the Legislature. In the same year he was a candidate before the Democratic State Convention for the nomination for Governor, and received the largest vote that was cast, until the name of Albert S. Marks was presented.

This was his last appearance in politics. His professional life covered a period of fifty years. His favorite forum was the Circuit Court, and he excelled greatly as a jury lawyer. He was a specialist in land law. Although his early education had been imper-

fect, he was a student, and manifested, especially in his later life, a fondness for philosophical reading. The closing years of his life were darkened by financial reverses, and eventually he was compelled to leave his native State and take up his residence in Texas. He died at Gainesville, in that State, in 1892.

Probably no man of his time had the esteem and confidence of the people of West Tennessee more thoroughly than Mr. Gardner.

In a lecture delivered in Tennessee soon after his own unwilling retirement from the United States Senate, John J. Ingalls, of Kansas, referred with feeling to the "unprecedented political longevity" of **Isham G. Harris**. Many another statesman of the last two decades, suffering the pains of political extinction, regarded with surprise, not unmixed with envy, the better fate of the Tennessee Senator.

Isham G. Harris was the most competent and skillful political leader in the history of Tennessee. Andrew Jackson was a greater man, and was indebted for his influence in Tennessee to the great qualities which made him in many respects the first man of his time in our country. He had many qualities of political leadership, but did not primarily owe his successes or his influence to them. He was so great a man that none of his time in Tennessee approached him in stature. During the political life of Isham G. Harris, extending through half a century, beginning in 1847, there were many men in the State who were his equals intellectually, and some who were his superiors, but not even Andrew Johnson or John Bell was his peer as a political leader. Others performed great political feats, notably John H. Savage, in promoting

the readjustment of the State debt, but none displayed equal capacity in the active and sustained leadership of a political party.

This does not imply that Harris was merely a politician. He was indeed a politician, a prince among politicians, but he was also much more than a politician. Considered in relation to State affairs, he is probably of more importance historically than any other Tennessean who has lived in the last half century.

The history of his life is full of interest, and from the first it is clear that the key-note of his character was force. He was one of the rare men in whom nature now and then compresses manifold the ordinary supply of energy of mind and of will. Intellectually he was an extraordinary man,*but did not surpass John Bell, nor John Marshall, nor A. O. P. Nicholson. What we ordinarily call the moral faculties, were not conspicuously developed in him, but he was by nature, as well as by practice, an honest man. And this constitutional honesty, constantly displayed in fidelity to his friends, as well as to his public duties, was the second great cause of his extraordinary successes.

That he was brave is necessarily true, for courage is a part of that energy which was his dominant characteristic. The cardinal points of his character, then, were intellectual energy, courage, fidelity. His history abounds in proofs of this.

He was a native of Tennessee, and was born in Franklin County, in 1818. The exact date of his birth is said to have been February 10 of that year, but this is not stated positively.

The family had not been one of note in previous generations. The father and grandfather both bore

the name Isham Green, and by the former it was bestowed upon his youngest son, the future Governor and Senator. The circumstances of the family were, at first, fairly good. There was a plantation of a thousand acres, worked by a dozen or more slaves, and the sons of the family, including the youngest, received academic training.

The father seems, however, to have been lacking in thrift, and gradually his affairs became disordered. Mortgages upon the plantation, made necessary by indifferent management, caused much distress in the family. When the first of these dreaded instruments was executed, the future Senator was a student in the academy at Winchester. He felt that the time had come for him to earn his own living. With characteristic promptness he communicated this opinion to his parents, who refused to allow him to leave home, and required his unwilling attendance at the Academy for another year. At the end of this time his purposes had become fixed, as had also a second mortgage, and the parents no longer resisted. An elder brother, who afterwards became a Judge of the Supreme Court, and met a tragic death, as already related in these Sketches, was practicing law at Paris, Tennessee, and thither the young adventurer first turned his steps. It had been his intention to travel on foot, but parental solicitude and generosity supplied him with a horse, and thus mounted, he rode away into the Western wilderness, without other purpose than to seek, and find, somewhere, a fortune. He did not intend to remain at Paris, but allured by the munificent offer of board and lodging and an annual salary of one hundred dollars, became a clerk there in a country store. At

the end of one year, his salary was increased to three hundred dollars. And now fortune signally favored him with an opportunity to display intelligence. The merchants of that remote region received their goods from the East by boats passing down the Ohio and Mississippi Rivers, but no boat made the entire trip, and in the course of the journey the freight was many times trans-shipped, at much expense of time and money. It befell in the third year of our hero's life in Paris, that one of his employers, whose duty it was to go East and buy goods, became ill, and so Harris, much misgiving, was sent upon this important errand.

Having made his purchases, and having conveyed them to the banks of the Ohio, he was suddenly inspired to a great deed, which was no more nor less than to charter a boat for the entire river trip, and thereby avoid the transfers which ordinarily protracted the journey through many months. Like all reformers, he encountered difficulties, but his successful arrival at home three months ahead of time, brought to him great increase of reputation, and to his employers gratifying profits.

The details of the immediately succeeding years of his life need not be given. His brother, the lawyer of Paris, impressed by his energy and intelligence, arranged with him for a mercantile partnership at Ripley, Mississippi. In two years the firm earned about twenty thousand dollars. This great success was due to the ability of the junior member. But now the junior member became dissatisfied. The powers that were in him yearned for expression. Ambitions that reached beyond a country store were asserting themselves. And so the young man, to the dismay of his

partner, declared his purpose to retire from commerce and to enter upon the law. A settlement of the firm's business yielded to each member ten thousand dollars. Of his portion, the junior member placed seven thousand in a Mississippi bank, which ere long was to demonstrate to him and to many others, the hazards that beset indefinite expansion. With three thousand dollars he returned to Paris, whence, after greeting his friends, and providing himself with an imposing wardrobe for the benefit of certain acquaintances, who had scoffed at his home-leaving, he went to Franklin County. With the three thousand dollars the family estate was freed from incumbrance and was sold. The entire family then went to Paris, where the proceeds of the plantation secured a comfortable home. This most worthy purpose accomplished, and all within six years, the dutiful son entered upon his student life, but only to be rudely interrupted at the very outset. The Mississippi bank, having continually and inordinately expanded, now finally reached the limit, exploded and collapsed. Seven thousand dollars thus vanishing suddenly, Harris found himself under the necessity of resorting again to some pursuit which would yield prompt returns, as the law would not.

A generous friend, Colonel Tharpe, of Paris, had once offered to lend him the money to buy a stock of goods. To him the young man, now in deep dejection, resorted. The response was not less generous than the original offer. Twenty thousand dollars promptly placed at his disposal, enabled him to open a business which proved so profitable that in three years the loan was repaid. Meanwhile father and mother had died, and the will left everything to Isham, repaying his

filial devotion. But he called his brothers together, and with their consent the will was burned, and the property all made over to their sisters.

In 1841 things came right at last, fortune was retrieved, and the young merchant became a lawyer.

In 1843 he was married to Miss Martha Travis.

In 1847 two Democrats and one Whig were candidates for the State Senate from Henry, Weakley and Obion Counties. Harris was one of many Democrats who endeavored to make an adjustment between the two candidates from that party. These proving intractable and unreasonable, at last his patience was exhausted, and he resorted to a fine and characteristic stroke of audacity, became a candidate himself, and was elected over Democrats and Whig. Thus opened his great political career.

In 1849 he was elected to Congress as a Democrat, and re-elected in 1851. The nomination being tendered him in 1853, he declined, and partly in order to avoid importunity, went to Memphis to practice law. He was not again in public life until 1856, when he was a Buchanan Elector for the State at large. In this canvass he gave his party great satisfaction. He was a vigorous and earnest speaker, a skillful debater, and in all things bold and resolute. Nominated for Governor in 1857, he defeated Robert Hatton, the Whig and American candidate, by a majority of eleven thousand. The competitors had been well matched. At Fayetteville they had a personal difficulty, and at the end of two months' constant speaking, both were exhausted, and many appointments were recalled, to the great regret of a speech-loving public.

In the race for Governor in 1859, Harris was pitted

against John Netherland, a very popular man, and one of the most noted jury lawyers of East Tennessee. He was not a match for Harris, however, and was distinctly worsted in the debates.

The two ensuing years were full of great events. The Whigs had elected the Governor of Tennessee in 1851 for the last time. Thenceforth the Democrats had held the State by a majority of about ten thousand. In the Federal election of 1860, only three of the four candidates were considered in Tennessee. The Whigs were solid in support of John Bell, the Union candidate. The extreme Southern wing of the Democratic party, asserting the constitutional right to secede under proper conditions, voted for Breckenridge, while the Conservatives, or Union Democrats, supported Douglass. The "Little Giant" received enough votes to give the State to Bell, and the supporters of Bell and Douglass together outnumbered the Breckenridge men largely. It was clear, therefore, that a majority of the voters were opposed at that time to secession. Governor Harris was a pronounced States' rights man, and was in sympathy with the secession leaders of the other Southern States. December 8, 1860, a month after Mr. Lincoln's election, a special proclamation convoked the General Assembly to "consider the present crisis."

The Assembly met January 7, 1861, and on that day received the Governor's message, an elaborate and vigorous document, containing a clear and strong statement of the grievances of the South, predicting an armed conflict between the sections, and urging that the State be put into a condition which would enable her to protect her rights. Five amendments to the

Constitution of the United States are advocated, providing for an equitable division of the unsettled territories between the sections in the matter of slave-holding, for the more explicit recognition of the right of property in slaves, and for adequate guarantees of that right.

The John Brown raid is denounced, and it is declared that sectional feeling in the North "has, in the person of the President-elect, asserted the equality of the black and white races."

At this session was passed a resolution submitting to the people the question whether or not they would hold a Convention to consider the subject of withdrawing from the Union, and also providing for the election of delegates to the Convention. The election was held February 8, and the vote was, for Convention 57,798, against it 69,675. A better test of public sentiment, however, was in the vote for delegates. The aggregate vote for Union delegates was 88,803, and for disunion delegates, 24,749.

It is certain that many electors voted for the Convention who were opposed to secession.

This election was accepted as conclusive evidence that Tennessee would not secede, and it may be assumed that but for the events of the ensuing Spring, such would have been the case. There was probably no one in Tennessee who was a disunionist for the sake of disunion—not even Governor Harris, who was afterwards denounced as the arch-traitor and original apostle of "rebellion." Harris believed that there was cause for secession, and was not actuated, as has been charged, by a resentful or malicious desire to disrupt the Union.

In the interest of truth, it must be said further that Governor Harris has been credited with a larger influence in causing the withdrawal of the State than he or any one else possessed. The public men of Tennessee had a surprisingly small part in directing the course of events at that time. The great currents of conflicting sentiment that were sweeping over the country, carried all men, large and small, one way or the other. That there were potent leaders is true, of course, and none was more potent in Tennessee than Harris, but if he had opposed secession to his uttermost, the State still would have seceded. The leaders of the other side were Bell and Johnson. Mr. Bell, probably the most intellectual of the three, was not specially fitted for leadership in times of revolution, and Johnson was out of the State attending to his duties in the Senate. When the final test came, Mr. Bell went with the tide, not to win favor, but because he believed it was right to do so. A majority of the more prominent Whig leaders, such as John C. Brown, Marshall, Hatton, Henry and Neill S. Brown, likewise followed Tennessee out of the Union. Moreover, without intending that result, a number of the Union leaders in the State, Mr. Bell being one of them, had indirectly encouraged secession by issuing a joint letter just after Mr. Lincoln's call for volunteers, in which they advised that Tennessee, without attempting to leave the Union, should establish an army and thenceforth maintain a position of armed neutrality. It was the vain hope of Union men, like Governor W. B. Campbell, in all the border States, that they might arbitrate between the North and the South.

This joint letter, despite its express declaration to

the contrary, was an implied endorsement of the doctrine, or rather the right of secession, as the proposed action of the State was to be independent and not under the authority of the Federal government. Its publication has been denounced by Northern historians as an act of treason. Balie Peyton and certain other signers of the letter persisted in opposition to secession, but the majority of them went with the Confederacy. It has been shown that this letter denied the right of the government to subjugate the seceding States.

Early in April, 1861, Fort Sumpter was attacked. On the 15th of that month, Mr. Lincoln issued a call for volunteers. Tennessee was included in the call, and Harris sent a spirited refusal. April 25, the Legislature met again in special session. The Governor, in the most important paper that he ever wrote, boldly advocated the withdrawal of Tennessee from the Union, and an application for admission into the Southern Confederacy. The ordinance of secession was passed May 6, affirming not the constitutional right, but the revolutionary right of secession. The following is the language in which the declaration is made: "We, the people of the State of Tennessee, waiving any expression of opinion as to the abstract doctrine of secession, but asserting the right, as a free and independent people, to alter, reform, or abolish, our form of government, in such manner as we think proper, do ordain," etc.

The people were to vote on this ordinance June 8, following. A resolution had been passed May 1, authorizing the Governor to enter into a military league with the Confederacy. Under this resolution, Gusta-

vus A. Henry, A. W. O. Totten and Washington Barrow were made Commissioners. These Commissioners met Henry W. Hilliard, the representative of the Confederate States, during the first week of May, and on the 7th of that month the agreement made by them was ratified by the Legislature. An Act was passed providing for a provisional army of 55,000 men, and appropriating \$5,000,000 to arm and equip it.

May 9, the Legislature confirmed the executive appointment of a long list of Generals.

The course of the Governor and of the Legislature in the interval between the passage of the ordinance of secession and the June election, has been most severely criticised. Space would not permit the discussion here of the legal and other questions involved, even if such a discussion were desirable. It is clear, however, that the policy was in accord with the sentiment of the State, for when the vote was taken, June 8, it stood for secession 104,913, against secession 47,238, more than half the opposing votes having been cast in East Tennessee. The ordinance also submitted the question of representation in the Confederate Congress, and the vote was 101,701 for, and 47,364 against representation.

June 24, the Governor issued his proclamation formally dissolving the connection of Tennessee with the United States, and July 2, by proclamation of President Davis, the State became a member of the Southern Confederacy. August 1, 1861, Tennessee voted to adopt the permanent Confederate Constitution, and on October 24, elected G. A. Henry and Landon C. Haynes, Confederate State's Senators.

Thenceforth great events came in quick succession.

The Governor encountered many difficulties in organizing the army of Tennessee, and never were his extraordinary energy and executive powers better displayed than in the successful accomplishment of this great undertaking. In a message sent to the Legislature in November, 1861, he reported that he had turned over to the Confederate government thirty-eight regiments of infantry, seven battalions of cavalry and sixteen artillery companies. During the war Tennessee gave to the Confederate army about 115,000 soldiers, and to the Union army 30,000 white and 20,000 negro soldiers.

In 1861 Harris was again a candidate for Governor, and was elected. William G. Brownlow was at first a candidate against him, but withdrew in favor of William H. Polk, whose canvass was extremely aggressive.

The Legislature elected in 1861, being the 34th, met at Nashville in December, and adjourned to January 20, 1862. It was in session at Nashville till February 15, 1862, when on account of the approach of the Federal army, it adjourned to meet at Memphis. This was the day before the surrender of Fort Donelson. March 3, 1862, Andrew Johnson was commissioned Military Governor of Tennessee, and on the 12th of that month entered on his duties.

Harris was the Confederate Governor until the ineffectual election of Robert L. Caruthers in 1863. But he was a Governor without a government, and was in the field upon the staff of the Commander of the Army of Tennessee during the last three years of the war. He was with Albert Sidney Johnston at Shiloh, when that great General was killed.

When the war ended, Harris was one of a company of Southern men that sought refuge in Mexico. He now became the subject of consideration at the hands of the reconstruction State government. Reward was offered for his capture, and a proclamation by Governor Brownlow described him in terms the most uncomplimentary. Leaving Mexico he went to Europe, and finally returned to Tennessee in 1867. He had been denounced not only for treason, but also for theft. Probably a more honest man never lived. His enemies confidently affirmed that he had appropriated public money which he had carried away with the State's other portable property, in the flight from Nashville.

Since the letters of Junius provoked the curiosity of the literary world, probably nothing has induced more surmising than the history of the public funds of Tennessee, from 1862 to 1865, especially the school fund. The most contradictory statements are made most positively. The writer does not assert exact knowledge of the facts. It may be assumed, safely, however, that Governor Harris did not have the school fund attached to his person during three years, and it is certain that he was not guilty of any appropriation or misapplication of public or private funds.

For ten years he again practiced law at Memphis. In 1876 he was nominated one of the Democratic Electors for the State at large, but the cautious policy of the National party disapproved the selection of so conspicuous and odious a "rebel," and he resigned. During the campaign, however, he made a number of speeches in the State. These speeches were full of energy and spirit, and everywhere were received with

enthusiasm. He was easily the first man in his party, and it was conceded long beforehand that he would be elected to the United States Senate in 1877.

In the Senate he greatly disappointed his enemies. He was called a "fire-eater," not without justification, and it was confidently hoped by the Republicans that he would adopt a policy of furious aggression.

But never did a public man display more consummate tact. No doubt the fires still burned in his heart, but he allowed no one to look into his heart. A man of the strongest convictions and prejudices, of quick temper and a ready and bitter tongue, he spoke in the Senate but rarely, and then always with moderation and wisdom. And this was not merely a selfish personal policy. His sense of public duty was high, and he realized that he could best serve his people by accepting the situation without complaint or useless resistance. And so it happened that by his self-control and sagacity, this most obnoxious of "rebels" served the South better by far than all the declaimers that she has sent to the Senate in the last twenty years.

When the Democrats controlled the Senate, he was elected to the temporary Presidency, and within a few years it was known everywhere that he was the best parliamentarian, and most influential man among the Democratic Senators, and that he was but little less esteemed by the Republicans than by the Democrats.

No surprise, therefore, was occasioned when it became known that Harris and Hoar, of Massachusetts, had established an intimacy. The office seekers learned that Harris was the most valuable and the staunchest of friends. When the Democrats went into power, he was embarrassed by the fact that he could

not help many to office, because he had secured for his constituency nearly its full quota, under the Republicans. With President Cleveland he was never, or at least not long, on cordial terms. Especially were their relations unsatisfactory during Mr. Cleveland's last administration, on account of the divergence of their opinions on the silver question. It was in this matter that Harris gave the last proofs of his great ability as a party manager and organizer. He was the real head of the movement which resulted in the adoption of the silver platform at Chicago in 1896. It is said that he was not greatly pleased by the nomination of Mr. Bryan, but however that may be, to him more than to any other man is due the overwhelming success of the silver men in the Convention. His health did not permit an active participation in the campaign, and continued steadily to decline. He died in Washington City, July 8, 1897.

Harris was the last of his race of public men in this State. In him, as in Jackson, there was something of the fierce energy and determination of the frontier. There was, in old times, a school of Tennessee statesmen, marked by a likeness of mental and moral, and even of physical characteristics. Physically they were lean and angular, mentally they were keen, aggressive, unrelenting in dislikes, faithful in friendships, and determined to a fault; morally they were not always above reproach in their private lives, but in public relations they were, almost without exception, sound to the core, and absolutely trustworthy. They were dangerous and often implacable enemies, the most faithful friends, and the sincerest patriots.

For forty years Harris lived in incessant political

strife. No man in Tennessee ever made more enemies, but he died having the respect of enemies as well as of friends. His faults were not unknown, but whatever they may have been, as to his ability and as to his personal and political integrity there can be but one opinion.

Albert Smith Marks was born in Daviess County, Kentucky, October 16, 1836. He was descended from a Virginia family of good standing.

The father, Elisha Marks, died when Albert was fourteen years of age, and just fairly beginning his education. The management of a moderate family estate then fell upon the boy, interrupting his schooling, and imposing large responsibilities. The parents being of a pious turn, had designed him for the ministry, but he preferred the law. He was admitted to the bar, at Winchester, in 1858, and became a member of the firm of Colyar, Marks & Frizzell.

Mr. Marks was a Democrat, and in 1860 supported Breckenridge and Lane, but was a Union man. When the war began, however, he went with the State, entered the Confederate army, was elected Captain, and within a short time rose by promotion to the Colonelcy of the Seventeenth Tennessee Regiment. He was a gallant soldier and a capable commander, and was highly esteemed in the army. At the battle of Murfreesboro he was severely wounded in the foot while leading a charge. An amputation was necessary, and he was for a long time physically incapacitated for active service, but being determined not to quit the army, he returned to the field, was made Judge Advocate on the staff of General Forrest, and held that place till the end of the war.

He was a strict disciplinarian, and the Seventeenth Tennessee, while he commanded it, was regarded as the best drilled regiment in Bragg's army.

In 1870 Colonel Marks was elected Chancellor for the Fourth Chancery Division. This position he filled with great credit to himself and satisfaction to the bar and to litigants.

In 1878 he was the Democratic nominee for Governor, and was elected.

His term of office covered a disturbed period in the history of Tennessee, and of the Democratic party especially. The State debt question had been for several years threatening the harmony of that party.

The position of Governor Marks on this vexed subject was clearly defined, but he did not seek re-nomination in 1880, for the reason that he believed that some one should be chosen who had had no prominent connection with the question. He favored what was known as the fifty and four plan of settling the State debt, but that plan was defeated, and he then assented to the settlement at fifty and three. Indeed, he was the leading spirit in the Convention of 1882, and probably did more than any one else to bring the two wings of the party together.

Afterwards Governor Marks was a candidate for the United States Senate, but was defeated by William B. Bate. He continued the practice of law with his office at Nashville, but was much sought after in important cases in other parts of the State. In 1888 he was a Cleveland Elector for the State at large. He died at Nashville, November 4, 1891.

Governor Marks lived and died with an unblemished reputation and with a high degree of public esteem

and confidence. *As a lawyer he was unquestionably one of the best in the State. As a public speaker he excelled greatly. He spoke with deliberation and accuracy, and with great force, and in his later years was probably the best political speaker and debater in the Democratic party in Tennessee.

His death occurred when he was in the prime of life. His position in the Democratic party was such that it is certain that if he had lived he would have been chosen again to high position. It is hardly to be doubted that he would have been sent to the United States Senate, a body in which he was qualified as a lawyer, and as an orator and debater, to take high rank.

Within a few days before his death, he argued two important cases with even more than his usual mental and nervous vigor, thus fatally exhausting his vital forces.

As Chancellor he had a remarkable record. He found the dockets of his Division crowded with old unsettled cases, the accumulations of many years. He at once gave the lawyers to understand that their cases must be tried. Diligence became the order of the day, and in a remarkably short time the dockets were cleared, and justice was no longer delayed.

Although his education had been interrupted, he was a diligent student and reader, so that after all he was one of the best educated men in the State. To his last day he was a laborious student of the law, and there was no better read lawyer in Tennessee.

Joseph Benjamin Palmer was born in Bedford County, Tennessee, November 1, 1825, and died November 4, 1890.

He was educated in the primary schools of the

neighborhood, and was afterwards, for two years and more, at the Union University, Murfreesboro, Tennessee. Leaving the University, probably in 1846, he studied law, and was admitted to the bar in 1848. He was a Whig, and took an active part in politics from 1851 to 1861, standing fast for the Union until Mr. Lincoln's call for volunteers was made. Like Bell, and Hatton and Marshall, he believed that his first duty was to the people of Tennessee. He therefore raised a company and afterwards a regiment of infantry for the Confederate service. This regiment was the Eighteenth Tennessee, and he was unanimously elected Colonel. At Fort Donelson, the ill-fated, he was captured with his regiment. Sent, a prisoner, to Fort Warren, in Boston Harbor, he was exchanged in May, 1862, and was at once re-elected Colonel of his old regiment. In the fighting around Murfreesboro in the succeeding winter, he was dangerously wounded, and was unable to return to his command until April, 1863.

On the first day of the great battle of Chicamauga, he led a gallant and successful charge of his regiment, in which he was desperately, and to all appearances, fatally wounded. The writer once succeeded in securing from General Palmer a very modest account of his experiences at Chicamauga. For the remainder of the day on which he was wounded, and during the succeeding night, he lay upon the battle-field, neglected, and at the very point of death. His body was cruelly torn and mutilated, and his vital forces almost destroyed by the shock and by loss of blood. Added to all this he suffered intensely from a sickness which had recently come upon him, and which now

attacked him with great violence. No effort is made here to portray the horrors of that night, but it is safe to say that in all the four years of the war, no man suffered more than Colonel Palmer suffered as he lay shattered, bleeding, sick and all but dead on the field of Chicamauga. In time he recovered, but his right arm was permanently paralyzed, and his constitution irreparably injured. Nevertheless he rejoined the army, and in July, 1864, was made a Brigadier-General, richly deserving the promotion, and was assigned to the brigade formerly commanded by John C. Brown. He was at Franklin and at Nashville, following Hood's gallant but fatal lead. Holding together the remnants of his brigade, he retreated with others, after Hood's last disastrous defeat, through Mississippi, and then, proceeding by way of Mobile and Augusta, joined General Joe Johnston.

The re-organization of the residuum of Hood's army being necessary, Johnston placed all the Tennesseans together and gave the command of them to General Palmer. Under him they participated gallantly in the final battle of Bentonville, March 20, 1865.

They surrendered with Johnston, and were paroled May 2, 1865. General Palmer, still faithful to his duties, led them home to Tennessee and dismissed them.

There were other Confederate Generals from Tennessee who reached higher rank and became more widely known than General Palmer, but there was none who rendered better service, or suffered more, or displayed more courage, fortitude and fidelity. No soldier ever gave stronger proofs of courage and devotion.

After the war General Palmer returned to his profession, and continued to have an active interest in politics. He was not a good politician, because, if it may respectfully and safely be said, he was too modest and not sufficiently artful. He was recognized, however, as one of the foremost and most deserving men in the State, and more than once his friends made the effort to induce him to seek the Democratic nomination for Governor.

As Governor he would have honored himself and the State. He was a man of ability, of courage and of convictions. His whole life was clean and admirable.

CHAPTER XII.

Howell E. Jackson—Neill S. Brown—Henry Cooper—B. J. Lea—W. C. Folkes—S. W. Cochran—R. P. Caldwell—A. W. Campbell—W. Y. C. Humes—W. C. Whitthorne—J. M. Thornburgh—L. C. Houk—W. V. Deaderick—Alfred Caldwell.

Howell Edmunds Jackson was born at Paris, Tennessee, April 8, 1832. Of the family of Judge Jackson little can be said beyond the fact that his parents were from Virginia, and that his father, Alexander Jackson, was a physician, and a man of culture and refinement. Being a Virginian, well-to-do, and having a son to educate, Dr. Jackson, of course, turned to the University of Virginia.

Howell E. Jackson, after receiving such training as the academies of West Tennessee could afford, was, in 1850, sent to Charlottesville, and there received his degree. Thus, thoroughly founded, he entered the law department of Cumberland University, at Lebanon, Tennessee, and took the full two years' course, graduating in 1856. He began the practice at Jackson, Tennessee, in 1856, but in 1858 changed his domicile to Memphis.

He was twice married, first, in 1859, to Miss Sophia Malloy, of Memphis, and second, in 1874, to Miss Mary E. Harding, of Nashville.

At the beginning of the war he was already recog-

nized as a lawyer of ability and as a man worthy of trust. He was, therefore, appointed to the responsible position of receiver of property sequestered under the Confederate Confiscation Acts. The office was one of importance and of responsibility, but its duties were intermittent, and he had frequent intervals of leisure which he diligently employed in the study of the law.

At the end of the war he returned to the practice, first at Memphis and later at Jackson, and in a few years rose to a position of great prominence at the bar of West Tennessee, and gradually acquired reputation throughout the State.

He was repeatedly called to fill temporary vacancies on the supreme bench of the State, and in 1878 was a candidate before the Democratic State Convention for nomination to one of the judgeships of that Court.

In 1880 he was nominated against his wishes, or at least without solicitation, for the lower house of the Legislature, by the Democrats of Madison County. In the party divisions of that time, he was what was known as a State Credit Democrat. The Legislature met in 1881. Factional strife in the party had reduced, dangerously, the Democratic majority, and at one time there seemed to be a possibility that the skillful and persistent efforts of the Republicans would secure the election of Horace Maynard to the United States Senate. The balloting was long, and the uncertainty protracted and trying. At last the dead-lock was broken by the unexpected and unsolicited election of Mr. Jackson, of Madison, to the coveted office. The Democrats of the State, without regard for factional differences, were greatly relieved and pleased. Senator Jackson was known to belong to the State Credit

wing of the party, but he was a Democrat. In the Senate he commanded respect from the first. It is said that the principal committee to which he was assigned had delayed the investigation of certain difficult matters that had long been before it. With prompt and pleasing generosity it gave the new member the opportunity to distinguish himself, by referring these delayed matters, or some of them, to him. The results exceeded their expectations, and Jackson took place at once among the best lawyers in the Senate. His abilities being demonstrated, he was cordially and respectfully received by the leaders of both parties. On all questions of law he was thenceforth heard attentively and profitably. Beyond doubt he was the equal as a lawyer of any man that Tennessee has ever sent to the Senate.

- His courtesy and his attractive personality made him a favorite.

When, in 1882, the second great fight over the State debt question came on in Tennessee, Senator Jackson adhered to his original position, and opposed the compulsory re-adjustment of the debt. When the "Sky Blue" Convention met, a committee of that body was charged with the selection of a candidate for Governor. The firmness with which Senator Jackson stood to his position, will be shown by the statement that after tendering the nomination to James E. Bailey, whose feeble health forbade his acceptance, and to others, who for various reasons declined it, the committee received assurances from a trustworthy source that rather than have the movement fail, Senator Jackson would resign from the Senate and become the candidate for Governor. This would, of course, have been

political suicide, as there was no possibility of electing the nominee of the Convention.

The election of Mr. Cleveland greatly advanced Jackson's position and influence in the Senate. His course in public affairs commended him strongly to the President, and it was known at Washington, in 1885, that he earnestly desired to have the Tennessee Senator in his Cabinet. High considerations of policy, suggested by prevailing conditions, alone prevented it.

The death of Judge Baxter, United States Circuit Judge for the Sixth Circuit, in 1886, opened to the Democratic lawyers of that Circuit, a long closed way to high position. From Tennessee, and from the three other States composing the Circuit, went to Washington a flood of applications, many of them from men of indisputable worth and competency. The President was greatly embarrassed and perplexed. Instinctively he turned to Jackson, whose fitness for the place was conspicuous. But Jackson was advocating the claim of another, and felt himself bound in honor to his friend, who was one of the best lawyers in the South. The President struggled long with his perplexities. Finally, in a letter which is preserved, he demanded that Jackson take the office. Reluctantly, though by no means insensible to the honor he was receiving, he consented. The President knew his qualifications for the place, and knew that in appointing him he could make no mistake. Mr. Cleveland's acquaintance with public men was at that time limited, and under the circumstances, it was Jackson's duty to accept. If there had been any doubt of the wisdom of the selection, it would have been dispelled by the ability, firmness and tact which, from the very first, distin-

guished Judge Jackson's administration of the office. He lacked no good quality as a Judge. He was profoundly learned in the law, was a diligent student, absolutely fair and impartial, prompt, though careful in decision, and combined with unfailing courtesy and consideration for the feelings of others, an unyielding firmness. It was a pleasure and not a task to practice before him. Business was dispatched and justice done at the same time. Though positive in conviction and quick to make his opinions known, he heard argument patiently, and if convinced that his own position was wrong, never failed to admit the fact. He was too large a man to need the affectation of infallibility. It is very certain that no Federal or State Judge ever gave more satisfaction than did Judge Jackson to the bar of Tennessee.

And now, having been elected to the Legislature, and to the United States Senate without effort on his part, and having been appointed Circuit Judge against his will, he was destined to be yet more signally honored under the most exceptional circumstances.

His appointment to the Supreme Court of the United States by President Harrison, in 1893, was unprecedented in our political history. He was a Democrat, and had been a loyal supporter of the Southern Confederacy. Mr. Harrison was a Republican, had been a General in the Union army, and had never been conspicuously liberal. It was held by some that dissatisfaction with the leaders of his own party prompted the President. Others, not being friendly to Jackson, said that he had been appointed because he was a Federalist. Some support for this last assertion apparently was found in the fact that in

writing to Judge Jackson, the President said: "I have believed from my knowledge of you, and representations of others that you were a believer in the nation, and did not sympathize with the opinion that a United States Marshal was an alien officer.

It is submitted that a Judge might hold these opinions without indulging Federalism of a virulent type, but it may be said that Mr. Harrison was justified in believing that Judge Jackson held opinions not unlike his own upon the subject of the relative powers of the State and the Federal governments. That these opinions were neither extreme nor dangerous, even in the judgment of Democrats, will abundantly appear, if proof be necessary, from Jackson's dissenting opinion in the income tax cases, and could otherwise be clearly shown.

His term of service in the Supreme Court was, unfortunately, not a long one. Soon after his appointment, symptoms of pulmonary disease made their appearance. His friends were dismayed by this unexpected danger. The fatal malady would not be stayed. Every effort was made, but in vain. He traveled far in search of favoring climates, and for a little while hopes of his recovery were entertained, but for these there was no foundation. The great income tax cases, attracting the attention and interest of the whole country, were coming on to be heard before the Supreme Court. There was fear that Justice Jackson would not be able to be at the hearing. At the first hearing he was absent, but at the second he was present and delivered a dissenting opinion, which closes with the following strong and sound words:

"The practical operation of the decision is not only

to disregard the great principles of equity in taxation, but the further principle that in the imposition of taxes for the benefit of the government, the burdens thereof should be imposed upon those having most ability to bear them. This decision, in effect, works out a directly opposite result, in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability. It lightens the burden upon the larger number, in some States subject to the tax, and places it most unequally and disproportionately on the smaller number in other States. Considered in all its bearings, this decision is, in my judgment, the most disastrous blow ever struck at the Constitutional power of Congress. It strikes down an important portion of the most vital and essential power of the government in practically excluding any recourse to income from real and personal estate for the purpose of raising needed revenues to meet the government's wants and necessities under any circumstances.

"I am therefore compelled to enter my dissent to the judgment of the Court."

This opinion was his last work. He died August 8, 1895.

His career is unique. There has been nothing like it in our history. A State Credit Democrat, he was elected to the Legislature at a time when his opinions were offensive, perhaps, to a majority of his party, and distasteful to nearly all its active leaders; a Democrat, he was elected to the Senate largely by Republican votes; he was appointed to the bench when he did not seek the place, and finally, being still a Democrat, and having been a supporter of the Confederacy, he was

nominated to the supreme bench of the United States by a Republican President and confirmed by a Republican Senate.

With such a record, he needs no eulogy.

Neill S. Brown was born in Giles County, Tennessee, in 1810, and grew to manhood there.

For two terms he attended an academy in Maury County. This was in 1831. In 1833 he began to study law at Pulaski, in the office of Chancellor Bramlett, and in 1834 was admitted to the bar, and opened an office there. In 1835 he sought a better field of practice in Texas, but being disappointed, returned to Tennessee. In 1836 he enlisted for the Seminole war, entering Armstrong's brigade as a private, and was promoted to the office of Sergeant-Major of the First Tennessee Regiment.

While serving in Florida, he was nominated District Elector, on the White ticket, in Tennessee, and rendered acceptable service on the stump. He was called to the same duty in 1840, and again in 1844, and gradually rose to a prominent position in the Whig party. In 1837 he was a member of the Legislature. In 1843 he was an unsuccessful candidate for Congress against Aaron V. Brown. The canvass made by the two Browns became famous, and was very fortunate in its results upon the career of the young Whig champion.

Aaron V. Brown was elected Governor by the Democrats in 1845, defeating Ephraim H. Foster. As the State election of 1847 approached, there was an active rivalry for the Whig nomination between Meredith P. Gentry, Gustavus A. Henry and Neill S. Brown.

Brown was finally chosen for the race, and had his revenge upon his late successful competitor for Con-

gress. In 1849 fortune again favored the Democrats, and Brown was defeated for re-election by William Trousdale, who was in turn defeated, in 1851, by William B. Campbell, the Whig candidate, and the last of the Whig Governors.

In 1850 Governor Brown received the appointment of Minister to Russia, and served in that capacity for more than three years.

Returning to Nashville in 1853, he was elected, in 1855, to the lower house of the Legislature from Davidson County, and was chosen Speaker of that body. In 1856 he was a candidate of the Whig party for Elector for the State at large.

He took no part in the war, but sympathized with the South.

In 1870 he was a delegate from Davidson County to the Constitutional Convention, and was an active and influential member.

He held no other office, and took no active part in politics, except to declare himself publicly, on certain occasions, in favor of an adjustment of the State debt by contract with the creditors. He was one of the greatest of the Whig leaders and one of the best and purest of our public men. He has not left so great a reputation as a public speaker as his famous Whig contemporaries, Henry and Gentry, but he is said to have been not less effective or popular than either. His devotion to politics prevented the full development of his powers as a lawyer. That he had the ability, the industry, the perseverance and the devotion to duty which are the prime qualities of a lawyer, is certain.

An ardent Whig, so long as that party existed, he

cast his fortunes with the Democrats after the war, and was prominent and influential in their councils.

He was married in 1839 to Miss Mary Ann Trimble, daughter of Judge James Trimble. Eight children were born of this marriage, one of whom is the Honorable Tully Brown, of Nashville.

Governor Brown died in 1886, at Nashville, where the closing years of his honorable and useful life were passed in dignified and tranquil retirement.

Henry Cooper was born at Columbia, Tennessee, August 22, 1827. He was the son of Matthew D. Cooper, of Maury County, Tennessee, who for many years was engaged in important commercial enterprises at New Orleans.

Henry Cooper was thoroughly educated, and was a graduate of Jackson College in the class of 1847. He read law at Shelbyville, Tennessee, in the office of Frierson & Cooper, and was admitted to the bar in 1849. In January, 1850, he entered upon the active practice with his brother, Edmund Cooper, at Shelbyville, under the firm name of E. & H. Cooper. He rose rapidly at the bar, being industrious and studious, and having a fine gift of speech. In 1853 he was elected, as a Whig, from Bedford and Rutherford counties, to the lower house of the Legislature. In 1857 he was elected to the same position from Bedford County.

Like nearly all the Whigs, he was opposed to secession, but unlike most of them he refused to go with the State in seceding.

He continued in partnership with his brother at Shelbyville until April, 1862, when he was appointed Judge of the Seventh Circuit by Andrew Johnson, Military Governor of the State. This office he held until

January, 1866, when he retired in order to accept a professorship in the Law School at Cumberland University. Here he remained until June, 1867, when he went to Nashville and formed a partnership with his brother, Judge William F. Cooper. In 1869 he was elected to the State Senate from Davidson County, and in 1870 was elected by the Legislature, of which he was a member, to the United States Senate to succeed Joseph S. Fowler. His term as Senator expired March 3, 1877. His Democratic competitor for the United States Senatorship was Andrew Johnson. In the Senate Mr. Cooper had few opportunities to prove his abilities. His party was a hopeless minority in that body, and hardly able to make its influence felt in opposition to Republican measures.

His fortunes seem to have suffered during his political career, and seeking to better them, he associated himself, after retiring from the Senate, with his brother, Colonel Duncan B. Cooper, and Mr. Van Leer Polk, in mining operations in Mexico.

February 7, 1884, on the highway between El Cuervo and Culeocan, he was attacked and murdered by Mexican banditti.

He was an able lawyer, a sound jurist, and an incorruptible statesman.

Benjamin James Lea, Attorney-General for the State, and Chief Justice of the Supreme Court, was born in Caswell County, North Carolina, January 1, 1833, of English and Scotch-Irish parentage. His father was Alvis G. Lea, and his mother, whose name was Nancy Kerr, was of a prominent North Carolina family. He graduated at Wake Forest College in June, 1852, and soon afterwards removed to Haywood

County, Tennessee, where he became a school teacher, studying meanwhile to prepare himself for the bar. Procuring a license, in 1856, he opened an office at Brownsville.

In 1859 he was elected to the lower house of the General Assembly from Haywood County. While a member of the Legislature he was appointed to the office of Commissary, with the rank of Major, in the Provisional Army, and a few months later was elected Colonel of the Fifty-second Tennessee Confederate regiment. Upon the re-organization of the regiment he was retained in his position by unanimous vote, and served until the end of the war. Early in 1865 he was captured, and remained on parole until after the surrender.

In 1876 he was appointed by Governor Porter Special Judge of the Supreme Court to take the place of Judge Freeman, whose health required a temporary retirement from the bench.

In 1878 the Supreme Court elected him Attorney-General and Reporter for the State. He served in this capacity for the full term of eight years, and published sixteen volumes of Reports. Retiring from this position in 1886, he practiced law until 1889, when he was elected to the State Senate. He was elected and served as President of the Senate.

In 1890, upon the death of Judge W. C. Folkes, of the Supreme Court, Judge Lea was nominated and elected to fill out the unexpired term. His majority in the election exceeded sixty thousand, and was the largest ever received by any Democrat in the State. In April, 1893, the Honorable Horace H. Lurton, Chief Justice of the Supreme Court, was appointed Judge of

the Circuit Court of the United States, and Judge Lea was elected Chief Justice in his place.

About this time his health began to fail, probably as a result of the excessive work undertaken by the Supreme Court. For several months he was unable to be upon the bench, and in his earnest desire to discharge his duties, took them up before he had fully recovered, thereby hastening his death, which occurred March 15, 1894.

William C. Folkes, a Judge of the Supreme Court of Tennessee, was born in Lynchburg, Virginia, June 8, 1845, and died at Memphis, Tennessee, May 17, 1890. His death, in the prime of life, was caused by overwork upon the supreme bench.

Very little can be found concerning the early life of Judge Folkes. It is recorded that he joined the Confederate army in 1861, and was severely wounded at the first Battle of Manassas. He recovered in time, however, to take part in the desperate fighting at Malvern Hill, where he lost a foot. Despite the fact that he was seriously disabled, he did not retire from the army, but remained in the field in active service until the end of the war. He then entered the Law School of the University of Virginia, where he graduated in 1865. In the next year he came to Memphis and entered upon the active practice of the law.

He married Miss Mary Wright, daughter of Judge Archibald Wright, and practiced law in partnership, first with Judge Wright, and afterwards with his son, Luke E. Wright, until he was elected Judge of the Supreme Court in August, 1886.

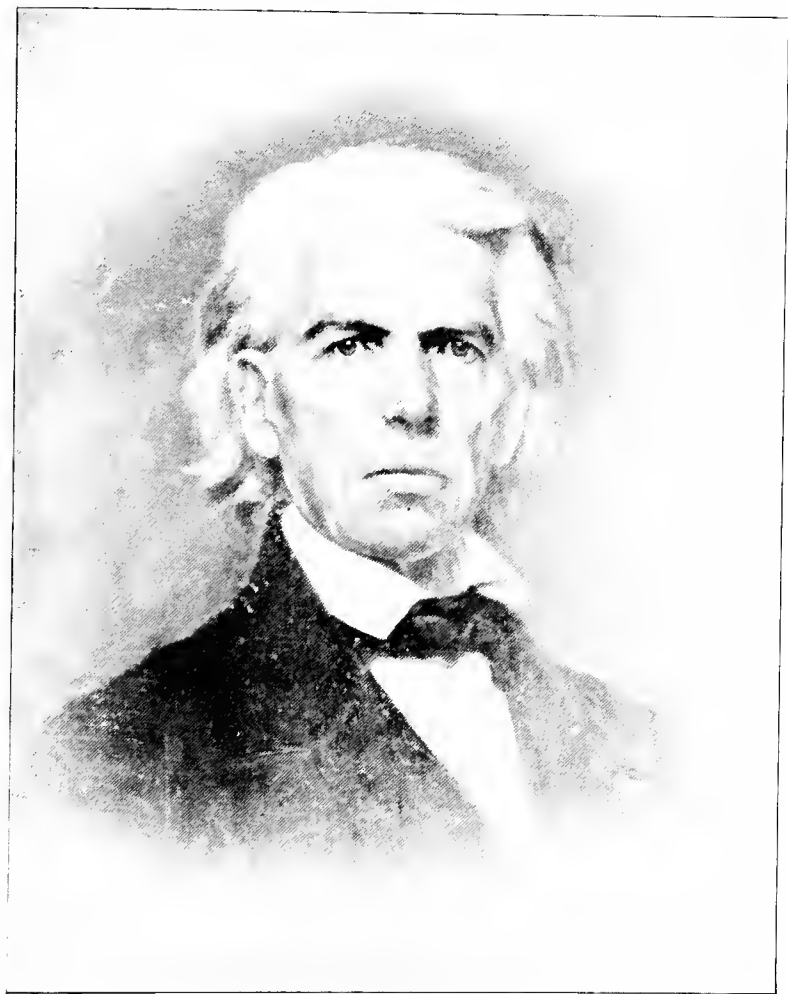
When Judge Folkes went upon the bench, the dockets of the Supreme Court contained a multitude of

delayed cases that had been accumulating for many years. It had been the habit of the former Court to write its opinions, which was in literal compliance with a Statute, though unfavorable to the dispatch of business, but the newly-elected body, which was composed of young men, with the exception of Judge Turney, entered upon its duties with enthusiasm and with a determination to write less, and to clear the docket. The amount of work undertaken and accomplished in pursuance of this resolution will be shown elsewhere in these Sketches. It need only be stated here that this work exceeded anything ever undertaken by any other court of final resort in the United States. The physical disability of Judge Folkes made it impossible for him to take active exercise in the brief intervals of labor. Therefore, as he was a laborious man, and exceedingly conscientious in the discharge of his duties, his health failed rapidly, and he survived his election not quite four years.

The record of his life is brief, but it is altogether honorable. He was a thoroughly equipped lawyer, and was one of the most amiable and attractive of men. If his life had been spared he would have won a high position among the Judges of the State.

Solomon W. Cochran was born in Portage County, Ohio, March 20, 1808. His father was a farmer, and had been a soldier in the war of 1812. The son was reared on the farm, and sent to school when there was no work to be done.

In 1832 he began the study of law in the office of Samuel Starkweather, at Cleveland, Ohio. He obtained his license in 1835, and in 1840 removed to Henry County, Tennessee, where he taught school



NATHAN GREEN.

for two years, and then went to Troy, in Obion County, where he resumed the practice of law, and where he resided until his death.

In 1848 he was a member of the Democratic National Convention which met at Baltimore. When the war began he sided with the South, and it is stated that in 1861 Governor Harris appointed him a Brigadier-General in the Army of Tennessee, and that he raised a number of companies and mustered them into service. No record is found to show that he served in the field.

In February, 1874, he was appointed by Governor John C. Brown, Judge of the Circuit Court for the Twelfth Circuit, and served until September of that year.

When the first Court of Arbitration for West Tennessee was created, he was made one of the Commissioners, his associates being Howell E. Jackson and L. D. McKissick, and in 1877 he was appointed to the same office, his associates then being J. L. T. Sneed and Joseph B. Heiskell. He was a member of the Democratic Convention that nominated Mr. Tilden, at St. Louis, in 1876. In November, 1880, he was elected on the Democratic ticket to represent Obion and Lake Counties in the Legislature. He died at Troy, October 14, 1888.

He was thoroughly equipped in all branches of the law, and a successful practitioner in all the Courts, but especially he was admitted to be the best land lawyer in West Tennessee.

Robert Porter Caldwell was born in Adair County, Kentucky, December 16, 1821. His parents removed, while he was a child, to Henry County, Tennessee, whence, after a few years they went to Obion County.

The father was a substantial farmer, and the son had the usual experience of farmers' sons in that time. In Summer he worked and in Winter went to school. The limited schooling which he thus received appears to have been exceptionally inferior. It was, therefore, with a very imperfect preparation, though with a fine natural endowment, that the young man, about the time of his majority, began the study of law at Troy.

Early in his professional life he discovered a liking for politics, and in 1845 was elected, as a Whig, to the lower house of the General Assembly from Obion County. After completing his term of service, he entered the Law School, at Lebanon, Tennessee, where he remained for a year, and then resumed the practice at Troy. About 1851 he removed to Trenton, in Gibson County, where he entered into partnership with Thomas J. Freeman, late a Judge of the Supreme Court of the State.

In 1855 he was elected to the State Senate from a district composed of Gibson, Dyer and Carroll Counties. In 1858 he was elected District Attorney for the Sixteenth Circuit, and served until the Courts were suspended by the war.

Like most of the Tennessee Whigs, he was a Union man until it became apparent that war was unavoidable, but when the crisis came he declared for the South and raised a company for the Confederate army. He was elected Captain of the company, which became a part of the Twelfth Regiment of Tennessee Volunteers. When the regiment was organized he was elected Major, and served gallantly at Belmont and at Shiloh. He was wounded at Shiloh, but did not leave the field. In May, 1862, his regiment was reorganized,

and the condition of his family affairs demanding his attention, he resigned and went home, where he remained until early in 1864, being engaged meanwhile in recruiting for the Confederate cavalry service. In the Spring of 1864 he rejoined the army, and served in Forrest's command on the staff of General Bell to the end of the war.

When the war was over, he returned to Trenton, and resumed the practice of the law in partnership with Judge J. T. Carthel.

The Whig party having been dissolved, Major Caldwell became a Democrat, and in 1871 was nominated and elected to Congress. With this term of service in Congress his public career ended. For the remainder of his life he practiced law at Trenton, where he had formed a partnership with Waller C. Caldwell, who since 1886 has been a Judge of the Supreme Court.

Major Caldwell was essentially a man of the people, with a fine social turn, but was not a learned lawyer nor a student.

The deficiencies of his education were apparent, but he never failed to impress one as a man of strong intellect.

He was a man of sound principles and of correct and blameless life, and was cordially liked and sincerely respected. The kindliness of his disposition attracted every one to him, and his sterling qualities commanded respect.

Alexander W. Campbell was born in the city of Nashville, June 4, 1828, and died at Jackson, June 13, 1893. As his name indicates, he was of Scotch descent, and his family formed a part of the Scotch migration to Ireland and of the Scotch-Irish migration to America.

Alexander W. Campbell was educated at an academy at Jackson, and in West Tennessee College. After completing his academic course, he took a degree in the Law Department of Cumberland University. He was married in January, 1852, to Miss Ann Dixon Allen, of Nashville.

In the same year he opened an office at Jackson and entered upon the practice of his profession. In 1854 he was appointed by President Pierce, United States District Attorney for West Tennessee, and was re-appointed in 1856 by President Buchanan, and held the position until 1860, when he resigned.

In politics he was a Democrat, and held the State's rights doctrines of the Southern wing of his party. On the first call for volunteers for the Provisional Army of Tennessee, in 1861, he enlisted as a private in a company of independent guards raised at Jackson, and afterwards incorporated into the Sixth Regiment. Before his regiment was mustered into service, however, he was appointed by Governor Harris, Assistant Inspector-General of the Provisional Army, and was active in organizing the army in West Tennessee. In June, 1861, he was appointed to the staff of General Cheatham, and in October of the same year, was elected Colonel of the Thirty-third Tennessee Regiment. He led his regiment at the battle of Shiloh, and was wounded in the shoulder by a minnie ball, but did not leave the field.

He was again wounded at the battle of Perryville. At the battle of Murfreesboro he served on the staff of General Polk, as Assistant Inspector-General. After the battle he was placed in charge of the conscript bureau for portions of Middle and West Tennessee,

with headquarters at Fayetteville. When Bragg retreated to Chattanooga, he was sent to West Tennessee to organize the Confederate cavalry in that section, and while engaged in that service was captured and sent to Johnson's Island, where he remained until September, 1864, when he was exchanged. While in prison he was promoted to the rank of Brigadier-General. After his exchange, he commanded a brigade under General Forrest, until the surrender of that gallant leader.

After the war he returned home and practiced law for the remainder of his life.

In 1868, and again in 1876, he was a delegate from Tennessee to national Democratic Conventions; in 1870 he was a delegate from Madison County to the Constitutional Convention, and served on the Judiciary Committee. In 1880 he was an unsuccessful candidate before the Democratic State Convention for the nomination for Governor.

W. Y. C. Humes was born at Abingdon, Virginia, in June, 1830. He came of a prominent family which has an honorable record in Virginia, Tennessee and Alabama. The father had been at one time a man of wealth, but had suffered reverses. The education of his son, therefore, was secured by his own efforts. He attended the Virginia Military Institute upon borrowed money, and, after graduating, taught school and with his first earnings repaid the loan. He afterwards read law, and began the practice at Knoxville, Tennessee, where he had relatives, one of them being the late Dr. Thomas W. Humes, who was for many years President of the University of Tennessee. He resided at Knoxville until 1858, or about that time, when he removed to Memphis, where he practiced

with great success until the outbreak of the war, when he entered the Confederate service as a Lieutenant of Artillery. By promotion he became subsequently Captain and Major of Artillery. He was captured at Island No. 10, and taken to Johnson's Island, where he was confined for nearly a year and then exchanged. After his exchange, he was assigned to duty at Mobile, where he was made a Brigadier-General in Wheeler's Cavalry Corps in the Army of Tennessee. A little while before the surrender he was made Major-General, and was wounded near Greensboro, North Carolina, in the last battle of the Army of Tennessee. His army record was a very creditable one. Keating, from whose history of Memphis the facts here related are largely taken, declares that he was "a born leader of cavalry." There is no doubt that he was a capable and gallant soldier. Keating further says of him: "As a lawyer he was still a cavalry leader, carrying to the forum the tactics of the field. His manner in law, as in battle, was to meet a charge with a charge. When he engaged in the preparation of a case he gave his days and nights, and his whole soul to it. He worked as laboriously, but far more impetuously than Judge Arch Wright. He was known to scarcely eat or sleep for days and nights when preparing a case. When he came to speak, he had no time for words, mere words, or thoughts for the elegancies of manner or graces of diction. He went directly to the points of his case, and showered his blows as if they were saber strokes. He stormed, as if a fort were to be taken; marshalling his words sometimes so closely as to prevent their utterance. His vehemence and enthusiasm had so much of self-conviction, that it be-

came contagious to jury and judge, and made him the most dangerous of antagonists."

General Humes died at Huntsville, Alabama, in September, 1883, from overwork and the persistent effects of his imprisonment during the war.

Washington Curran Whitthorne was born in Lincoln County, Tennessee, April 19, 1825. At the age of fourteen he was sent to an academy in Williamson County, and thence to the Campbell Academy, at Lebanon. This last named institution was the germ of the present Cumberland University. He remained there two sessions, then entered the University of Nashville, and finally matriculated at East Tennessee University, at Knoxville, where he graduated in the class of 1843.

In 1843 he began the study of law, one of his preceptors being James K. Polk. He was called to the bar in 1845. Soon afterwards he was appointed to a clerkship in the Sixth Auditor's office, whence he was promoted, and remained in the service of the government until he had saved enough money to begin the practice of his profession. Then, upon the President's advice, he resigned. In July, 1848, he married Miss Jane Campbell, and began the practice of law in Columbia, Tennessee.

He was naturally inclined to politics, and entered upon that absorbing pursuit in 1852, as an advocate of the Democratic candidates. In 1853 he was defeated for the Legislature, but in 1855 and in 1857 he was elected to the State Senate, and in 1859 was elected to the House of Representatives from the district in which he had been defeated in 1853.

The Legislature of 1859 was called upon to decide

the question whether or not Tennessee would leave the Union. Whitthorne was elected Speaker of the lower house, and was, therefore, in a position to exert great influence. He was in thorough accord with the policy of Governor Harris, and in the Summer of 1861 was appointed Assistant Adjutant-General of the Provisional Army of Tennessee, with the rank of Lieutenant-Colonel. After Tennessee entered the Southern Confederacy, he was made Adjutant of Anderson's brigade, and was with it in the West Virginia campaign.

In November, 1861, Governor Harris appointed him Adjutant-General of Tennessee.

After the departure of the State government from Nashville, in February, 1862, Governor Harris was in the field as a volunteer aide, and General Whitthorne served in a like capacity. He was, at different times, under Generals Hardee, Anderson and Marcus J. Wright.

After the war he returned to Columbia, and in 1865 received a pardon from Andrew Johnson. In 1870 he was elected, as a Democrat, to the Forty-second Congress. As a member of Congress he rose rapidly to a position of distinction and influence, and during a great part of his term of service was Chairman of the Committee on Naval Affairs. He became unusually familiar with the methods and needs of the Naval Department, and frequently was mentioned for the position of Secretary of the Navy, when the Democrats were in power.

In 1860 he was a delegate to the Charleston Democratic Convention, in which he was, in a sense, the personal representative of Andrew Johnson. In the

same year he was Elector for the State at large on the Breckenridge ticket, and made a thorough canvass of the State.

Upon the resignation of the United States Senatorship by Judge Howell E. Jackson, in 1886, General Whitthorne was appointed by Governor Bate to the vacancy, and served as Senator until the next meeting of the Legislature.

He died September 21, 1891. General Whitthorne possessed an active, highly cultivated and strong mind. His adaptation to public affairs was exceptional, and he was a polished and effective public speaker—one of the best of his time in Tennessee.

Jacob Montgomery Thornburgh was born in Jefferson County, Tennessee, July 3, 1837. He was the son of Montgomery Thornburgh, a prominent lawyer of East Tennessee, who served several times in the Legislature, and held the office of District Attorney.

In 1861 the subject of this Sketch crossed the mountains into Kentucky, and enlisted in the Union army as a private soldier. The details of his early military life cannot be given, but July 11, 1863, he was commissioned Lieutenant-Colonel of the Fourth Tennessee Cavalry, and took command of the regiment.

Colonel Thornburgh led his regiment in the battle of Murfreesboro, and afterwards accompanied General Smith's command into Mississippi, where he took an active part in the battles of West Point and Okolona. In January, 1864, while stationed at Memphis, he was placed in command of a brigade consisting of the Second, Third and Fourth Tennessee Cavalry, and marched to Nashville. Upon reaching Nashville his

regiment was put into the First Brigade of Tennessee Cavalry and stationed at Decatur, Alabama, where, in July, 1864, he was again placed in command of the brigade, and remained in command until it was divided, part being sent with General McCook in the campaign South of Atlanta. Colonel Thornburgh continued in the field in command of his regiment until it was mustered out in Nashville, July 6, 1865.

He had been licensed to practice law a few weeks before his escape to Kentucky. With the return of peace he began the practice in Jefferson County, but soon afterwards removed to Knoxville, where he resided until his death. In 1866 President Johnson appointed him Major of the Seventh Cavalry Regiment of the regular army, but he declined the appointment. In 1869 he was elected District Attorney for the Third District; was re-elected in 1870 and served until 1873. In November, 1872, he was elected to Congress from the Second District, and was re-elected in 1874, and again in 1876.

Soon after retiring from Congress, he established a law partnership with the late Judge George Andrews, which continued until the death of Judge Andrews.

Colonel Thornburgh's energy was greatly in excess of his physical strength, and by persistent attention to business when physically disqualified, his vital forces were entirely destroyed, and he died at Knoxville, September 19, 1890. He had certain rare qualities which made him a popular man, and an exceptionally valuable citizen. He possessed great courage, industry, and determination. As a soldier he was a gallant and hard fighter, but he was by nature generous and tolerant.

At the close of the war, social conditions in East Tennessee were greatly disturbed. Some among the adherents of the successful party were excessively bitter against their late antagonists. Reference has been made elsewhere in this volume to the persecution of Southern sympathizers for treason and for murder, and to the preacher whippings, for all of which a few malignant and vindictive men were responsible; but these men had a certain following and influence which made them dangerous, and this following would have been increased by the active resistance of those against whom their malignity was directed, but there were among the unionists of East Tennessee, many generous and brave men who did not hesitate even to imperil their own lives in defense of the oppressed and persecuted. Among the most active and fearless of these was Colonel Thornburgh, and for his conduct at this time he received, and was richly entitled to have the good will and gratitude of every Southern sympathizer in East Tennessee. His brave and generous conduct at this time cannot be too highly praised.

Leonidas Campbell Houk was born in Sevier County, Tennessee, June 8, 1836, and died in Knoxville, May 25, 1891.

In August, 1861, he enlisted as a private in the First Tennessee Infantry, which was organized and incorporated into the Federal army in the State of Kentucky. The regiment was composed entirely of East Tennessee loyalists who had fled across the mountains from East Tennessee to Kentucky. He was afterward Lieutenant and Quartermaster, and in February, 1862, was elected Colonel of the Third Tennessee Infantry. Colonel Houk's health failed in 1863, and he

was compelled to retire from the army. From 1866 to 1869 he was a Judge of the Circuit Court for the Seventeenth Circuit; from 1873 to 1875 a member of the lower house of the Legislature from Knox and Anderson counties, and was elected to the Forty-sixth Congress, and re-elected successively to the Forty-seventh, Forty-eighth, Forty-ninth, Fiftieth, Fifty-first and Fifty-second Congresses. His death occurred in the midst of his seventh term. The life of Judge Houk strikingly illustrates the advantages of our free institutions. His birthplace was a log cabin in the mountains of East Tennessee, and his parents, though correct and honorable in their lives, occupied an humble station, so that his early life was passed in poverty, obscurity and hardship, and without any opportunities of education. While yet a boy he learned the trade of cabinet maker, and it was while carrying on this occupation that he began the course of self-improvement which made him one of the most notable men of his time in Tennessee. It is said that he declared more than once that three months would cover the entire time of his schooling, and the writer of this Sketch has heard him say that while carrying on his trade during the day, he read law by the light of blazing pine knots at night. He was admitted to the bar shortly before the war, and took an active part in the Presidential campaign of 1860 as an advocate of Bell and Everett. In 1861 he was a delegate to the two East Tennessee Union Conventions.

In 1864 he was district Elector on the Lincoln and Johnson ticket. He took part, in 1865, in the revision of the State Constitution, and was a delegate to the

Chicago Convention of 1868, which nominated General Grant for the Presidency. He was a delegate to every National Convention of the Republican party from 1868 until his death, with one exception, and in 1880 was one of the 306 delegates who supported General Grant for a third nomination.

Tennessee has produced few men who possessed in a larger measure the faculty of winning and retaining public favor. In politics he was a pronounced partisan, and his public speeches were always aggressive, and not infrequently offensive to his political opponents, but his private relations with those who differed with him in politics were generally cordial, and it is a noteworthy fact that, while he was regarded as one of the bitterest and most uncompromising of Republicans, there were hundreds of Democrats in his district who repeatedly voted for him. He was an ambitious man, and a hard worker in Congress. As a political manager he was skillful, shrewd and successful, but personally he was absolutely honest. At the bar he was one of the most successful advocates in East Tennessee. It is worthy of mention that a Judge of the Supreme Court, at the time when Judge Houk was practicing in that Court, declared that his briefs were not surpassed by any others that were presented to the Court. He was essentially a self-made man, owing nothing to birth, having no advantages of education and no influential friends. Even in the midst of his remarkably successful career in public life he could rely only upon himself and upon the cordial support of the common people, to whom by his origin, by his thorough sympathy with them, and his perfect knowledge of their character and needs, he endeared

himself as few men have been able to do. But it was not alone to the common people that he was attractive. He had the indefinable quality, which, for want of a better name, is called personal magnetism. He was liberalized and improved by contact with the great men of the republic, and grew year by year in intellect and in culture. So firmly was he entrenched in the affections of the people of the Second Congressional District, that nothing but death or voluntary retirement could have removed him from Congress.

It is stated by trustworthy persons that probably the first public utterance by a Republican in favor of enfranchising the Confederates of Tennessee was made by Judge Houk in a speech delivered in 1866. While on the bench he held that the State government of Tennessee ceased to exist May 6, 1861, and ordered all treason cases to be stricken from his docket at a time when convictions for treason were of constant occurrence in adjoining circuits.

William V. Deaderick was born at Jonesboro, Tennessee, in August, 1836, and died September 23, 1883. He was the son of J. F. Deaderick, who was for many years the Clerk of the Supreme Court at Knoxville, and was the nephew of Chief Justice James W. Deaderick.

He was educated at Martin Academy, at Washington College, Tennessee, and at Dickinson College, Pennsylvania. The moral and religious atmosphere of the old town of Jonesboro was pure and refined, and the young man grew up surrounded by the best family and social influences.

His first appearance in public life was when he was elected a member of the Constitutional Convention of

1870. In that body of able men he held an honorable position.

After the war he was a Democrat, and unfortunately for his personal aspirations, his party was in the minority in upper East Tennessee. It cannot be said that he aspired to political position, but he was ambitious of distinction in his profession. In politics, however, as in everything else, he was actuated by a conviction, and remained true to his principles. The singular purity of his character and the popular favor in which he was held, would certainly have secured him promotion if he had belonged to the dominant party. As it was, he held no other office, except that in 1879, when it became necessary to devise means for relieving the overburdened docket of the Supreme Court, he was appointed one of the Judges of the Court of Arbitration for East Tennessee. His associates were Judge Henry H. Ingersoll and Judge Samuel J. Kirkpatrick.

At the end of his services upon the bench, Judge Deaderick returned to his home in Jonesboro, and for the remainder of his life followed his profession.

As a lawyer he was in the highest degree careful and painstaking. He was known to be a thorough student, and to be entirely conscientious in his opinions, and therefore his judgments were accepted with great confidence by all who knew him. His mind was clear, discriminating and quick to act. Having once reached a conclusion he was firm in support of it, for both physically and morally he was a man of unswerving courage. Personal danger, which in the troubled times succeeding the war he not infrequently encountered, never deterred him or swerved

him from the performance of duty. He upheld constantly the highest professional standards, and was incapable of commercial methods for the procurement of business, or of trickery or deceit in the practice. He is entitled to a place among the prominent lawyers of Tennessee, not so much by reason of actual accomplishment as of a capability for the highest order of professional work and professional success.

About the year 1786, Anthony Caldwell, son of John Caldwell, came from Virginia to East Tennessee. Many members of his family had participated as patriots in the Revolution, and the family records show that Anthony Caldwell was present at the siege of Yorktown, although he was then less than eighteen years old.

He was of Covenanter stock, and was for many years a Ruling Elder in the Presbyterian Church. The first Sunday-school in Tennessee was held in his house.

John Caldwell, son of Anthony, was born in 1790, and was the principal pioneer in the development of the mineral resources of East Tennessee. He was not a college man, but was both theoretically and practically a genuinely learned and enthusiastic geologist. Nearly all the principal mineral deposits of East Tennessee were discovered by him. Especially was he active in developing the copper mines at Ducktown, in Polk County. He was also a practical philanthropist, and his life abounded in benevolent works.

He was the first in his county to enlist for the war of 1812, and was throughout his life a lover and a staunch supporter of the Union. He held no office except that of Pension Agent, at Knoxville, under

Andrew Johnson. Like his ancestors, for many generations, he was a strict Presbyterian, and was an Elder for half a century.

His son, **Alfred Caldwell**, was born in Jefferson County, Tennessee, July 5, 1829, and was reared in a home not of luxury, but of comfort, amidst the most excellent and refining influences. His family was one of those of the Covenanter stock that abounded in ministers of the Presbyterian Church. At one time half a score of his close kinsmen were of this sacred calling. He grew to manhood on the farm, developing a splendid physique, and displaying qualities of mind that gave promise of success and usefulness in the world. Being self-helpful, he became in early life a school teacher, and earned the money to complete his education. He graduated at Maryville College, having taken the Junior and Senior class studies in one year.

In 1854 he graduated at the Lebanon Law School, and at once entered upon the practice of law at Athens, in East Tennessee, where he formed a partnership with the late Milton P. Jarnagin. In the same year he was married to Miss Jane Ewing, daughter of Dr. Joshua Ewing, of Rose Hill, Virginia.

At the bar he was at once successful. Thoroughly educated, and having a mind of unusual acuteness and power, he found the study of law entirely congenial. His great gifts as a speaker made him an exceptionally successful advocate, and his logical habit of mind and mastery of the law commanded the respect of the Courts.

In 1859 he was elected, as a Whig, to the Legislature from McMinn County, and was one of the parlia-

mentary leaders of his party in the House of Representatives. This was the General Assembly that voted Tennessee out of the Union. He was originally a Union man, and opposed secession until war became inevitable, when he declared himself for the South. He was offered a commission in the Confederate army, but in a command where official associations were not acceptable. He therefore declined, and remained out of the army until 1863, when he attached himself to the East Tennessee brigade of General John C. Vaughn, and served as a private soldier until he was captured in December 1864, and sent as a prisoner of war to Camp Chase. He was exchanged a few weeks before the surrender.

In 1860 he was the Bell and Everett Elector for his district, and in 1861 was an unsuccessful candidate for the Confederate Congress. After the war he moved to Knoxville, and practiced law there until his retirement from business in 1882.

In 1872 he was the Democratic nominee for Congress in a district which had been so shaped, it was hoped, as to overcome the strong Republican vote of Knox and other East Tennessee counties. But by reason of the fact that he had been a Southern man, and on account of party defections caused, in part, by the independent candidacy of Andrew Johnson for Congress from the State at large, he was defeated. In 1878 he was a candidate before the Democratic State Convention for the nomination for Governor. He died November 6, 1886, after a long and painful sickness.

Although he was a man of amiable disposition and great personal popularity, and was among the most

pleasing and effective public speakers in Tennessee, he was not a successful politician, because he had convictions and would not forego them for the sake of position.

At the Knoxville bar he was one of the acknowledged leaders, and was habitually chosen special Chancellor when one was needed. He was thoroughly equipped and efficient in all branches of the law, and his practice in the higher class of cases was always large and remunerative. He was one of the original counsel, upon the winning side, of the famous Jolly's Island case, the most noted land suit in the history of East Tennessee, and was exceptionally learned in land law. While he accumulated a considerable estate, he was indifferent to money and inexperienced in the use of it.

As a speaker, he was earnest, impressive and often eloquent. In diction he was copious, but always accurate, rich without turgidity, and forcible without exaggeration. In his home and social life he was affectionate, amiable and gentle. Of the wilful infliction of pain or injury he was incapable. The kindness of his nature made the conflicts of the bar often distressing. Having only kindness for others, criticisms by his brother lawyers and the harsh methods of politics, wounded him deeply. In all his life he did no act, uttered no word to the wilful or gratuitous injury of any man. Like all other men, he had enemies, but not by any fault of his own. He was incapable of hatred, and ready to forgive any injury. Others may have sought to injure him, but in all his days he wronged no man. A kindlier, gentler soul never dwelt in human form. A natural diffidence, which all his experiences at the bar, and in public

affairs could not overcome, gave him at times the appearance of reserve, but he loved his fellow men and craved their sympathy.

Failing health and financial reverses deeply shadowed the closing years of his life, but accumulating misfortunes and the intensest physical sufferings did not impair the sweetness and gentleness of his disposition. The tender love of a family that knew his merit and goodness, and saw with infinite grief the sure coming of the end, comforted him in these last sad days. After many days of anguish, borne without complaint, and with unfailing serenity and resignation, he died peacefully and without fear.

CHAPTER XIII.

The Supreme Court under the Constitution of 1870—
The Efforts to Relieve It—The Federal Judges of Tennessee.

When the Constitutional Convention of 1870 met, the dockets of the Supreme Court were much crowded. The war had suspended the Court, and the accumulation of business was so great, when its sessions were resumed, that the three Judges provided by the Constitution of 1834 were unable to try all the cases promptly. It was therefore ordered in the schedule of the new Constitution, that at the first election thereunder, there should be chosen six Judges of the Supreme Court, two from each grand division, but any vacancy occurring after January 1, 1873, was not to be filled, so that the occurring of this contingency should reduce the Court to five Judges. So long as the Court should consist of six Judges, it was authorized to sit in two sections, but not in different grand divisions. This plan was in actual operation from 1870 till the death of Chief Justice Nicholson, March 23, 1876.

The members of the Court elected in 1870 were, Thomas A. R. Nelson and James W. Deaderick from East Tennessee, A. O. P. Nicholson and Peter Turney from Middle Tennessee, and John L. T. Sneed and Thomas J. Freeman from West Tennessee. Judge

Nelson resigned December 5, 1871, and was succeeded by Robert McFarland. Judge Nicholson was Chief Justice from 1870 till his death, and was succeeded by James W. Deaderick.

In 1878 Judges Deaderick, Turney, Freeman and McFarland were re-elected, but Judge Sneed failed of re-nomination, and the place went to William F. Cooper, of Middle Tennessee. These five Judges served the full term without change, Judge Deaderick being Chief Justice.

In 1886 the following were chosen: for the State at large, Peter Turney and W. C. Caldwell; for East Tennessee, D. L. Snodgrass; for Middle Tennessee, Horace H. Lurton, and for West Tennessee, W. C. Folkes. Peter Turney was elected Chief Justice. Upon the death of Judge Folkes, in May, 1890, W. D. Beard, of Memphis, was appointed to the vacancy, and served until the election of B. J. Lea, in August, 1890. In January 1893, Judge Turney resigned, having been elected Governor, and was succeeded as Chief Justice by Horace H. Lurton, who served till April, 1893, and then resigned to accept the United States Circuit Judgeship for the Sixth Circuit. He was succeeded as Chief Justice by B. J. Lea. Upon the death of Chief Justice Lea, in March, 1894, Judge Snodgrass became Chief Justice without opposition. Meanwhile Judge Turney's place on the bench had been filled by the appointment of John S. Wilkes, of Giles County, January 16, 1893, and Judge Lurton's place by the appointment of W. K. McAlister, April 1, 1893. Judge Lea died March 15, 1894, and his unexpired term was filled by A. D. Bright, by appointment.

In 1894 was elected the present Court, consisting

of W. C. Caldwell and W. K. McAlister, for the State at large; D. L. Snodgrass, for East Tennessee; John S. Wilkes, for Middle Tennessee, and W. D. Beard, for West Tennessee. Judge Snodgrass was re-elected Chief Justice, without opposition.

The Attorneys-General for the State since the war have been, Joseph B. Heiskell, from 1870 to 1878; B. J. Lea, from 1878 to 1886; George W. Pickle, from 1886 to 1894, and from 1894 to the present time.

Soon after the adoption of the Constitution, it became apparent that even the enlarged Supreme Court could not dispose of the arrears of cases on the docket, and, therefore, as early as 1873, temporary Courts of limited powers were created to assist in the work. The first of these was the Arbitration Court for Middle Tennessee, in 1873, consisting of Chief Justice A. O. P. Nicholson, who was detained at Nashville by inability to travel, and of John W. Head and James E. Bailey. This Court expired by limitation, September 1, 1873.

In 1875, and again in 1877, the experiment was renewed for Middle Tennessee, and was extended to West Tennessee. Those who sat in these subsequent Arbitration Courts for Middle Tennessee, at different times, were J. J. Turner, John W. Burton, E. L. Gardenhire, W. P. Hickerson, John E. Garner and T. M. Jones. For West Tennessee were B. M. Estes, J. T. Carthel, Henry Craft, Howell E. Jackson, L. D. McKissick, S. W. Cochran, J. L. T. Sneed and J. B. Heiskell. In 1879 a like Court was created for East Tennessee. Its members were Henry H. Ingersoll, J. B. Cooke and William V. Deaderick.

All these Courts were composed of excellent law-

yers, and did acceptable work, but the results were not so satisfactory as had been expected. The inability to render and to enforce final decrees, against consent, seriously impaired their usefulness.

In 1883 were created the Courts of Referees, composed of nine members, three from each grand division, appointed by the Judges of the Supreme Court. The Courts of Referees were authorized and instructed to report in writing upon the facts and the law of each case, except revenue cases, filed before January 1, 1885. in the Supreme Court for their respective divisions. The term of the Middle Tennessee Court was afterwards extended to April 1, 1886. The members of the Court who sat in East Tennessee were, John Frizell, J. L. T. Sneed and S. J. Kirkpatrick; in Middle Tennessee, W. C. Caldwell, W. L. Eakin and John Tinnon; in West Tennessee, D. L. Snodgrass, A. D. Bright, and for a time, John E. Garner. After a while, Judge Garner was succeeded by E. L. Gardenhire.

The reports of the Referees were final, unless excepted to in writing, with assignments of error, within fifteen days after they were filed.

The extraordinary energy and enthusiasm of the Supreme Judges elected in 1886, resulted in a marvelous facilitation of the business of the Court, and if the number of appeals had not increased, it is probable that, at the cost of an occasional death from overwork, as occurred in the cases of Judge Folkes and Judge Lea, the Court might have kept up with the business, but upon the contrary, the appealed cases have steadily grown in number, especially in East Tennessee. From an average of a little over two hundred, the East Tennessee docket has increased to an average of

five hundred. In Middle Tennessee, also, there has been a steady increase. For this reason it became necessary, in 1895, to devise some additional means of clearing the dockets. It was considered best to create a permanent Court, which should have the power to render decrees that, within proper limitations, should be final, and be enforceable by the Court.

The result was the Court of Chancery Appeals, composed of three members, one from each grand division. This Court hears such Chancery causes as may be assigned it by the Supreme Court, but cannot determine causes affecting State revenue. It must make all its findings in writing. It has only appellate jurisdiction, and upon all questions of fact its findings are conclusive. On questions of law, an appeal in the nature of a writ of error to the Supreme Court may be taken within ten days after decree.

The Court may sit at Knoxville, Nashville and Jackson; and also, in its discretion, at Memphis and Chattanooga.

The Judges of this Court, appointed by Governor Turney, in 1895, were, R. M. Barton, Jr., from East Tennessee, S. F. Wilson, from Middle Tennessee, and M. M. Neil, from West Tennessee. They were all elected by the people in 1896.

This Court has given great satisfaction to the bar. Its labors have been exacting and burdensome, but have been diligently and ably performed. It gives full time to the argument of cases, and the most careful consideration to them afterwards. It has greatly aided the Supreme Court, not only by the number of cases that it has finally determined, but more especially by the simplification of the work of that body.

While it has necessarily increased the labors of counsel, it has amply compensated them by reducing the work of the Supreme Court, thereby invaluablely aiding the dispatch of business.

The Court of Chancery Appeals is certainly the most satisfactory of all the experiments that have been made in aid of the Supreme Court, and unless the Legislature shall, in a mood of self-sacrifice, enact a law limiting appeals, this Court must be retained, or increasing and most vexatious delays of justice will result. As a high and proper regard for their own interests is not less characteristic of the public men of Tennessee than of those of other States, the most sanguine will hardly expect a limitation of the right of appeal.

It is extremely interesting to consider the work done by the Supreme Court Judges since 1886.

The Court elected in 1886 held its first session in Knoxville, in the Autumn of that year, and in nine weeks disposed of four hundred and thirty-three cases. Sitting at Nashville that Winter for fourteen weeks, it decided eight hundred and twenty-three cases, and concluded its first year's work in a term of nine weeks at Jackson, during which it disposed of five hundred and sixty-six cases, making in all for the year, 1,822 cases—nearly five times as many as were decided by the nine Judges of the Supreme Court of the United States in the same year.

The number of cases heard the next year was, at Knoxville, 351; at Nashville, 733; and at Jackson, 333, in all 1,417. The third year, 1,163 cases were tried. The first two years' work practically cleared the dockets of all the grand divisions, and they were

kept clear until the last four years. These stupendous results were accomplished by the most incessant hard work. The procedure of the Court was modified in important respects. Saturdays, which had been formerly days of recess, after the delivery of opinions, were utilized in the hearing of cases, assignments of error, and full briefs were required, and the number and time of arguments limited. Many cases were decided from the bench, and most of the opinions were oral—it being the rule not to write except in cases which, in the judgment of a majority, required it. All these things helped, but the real cause was the hard work of the Judges. A Judgeship of the Supreme Court is an office of great dignity, and carries with it a social prominence and a corresponding social obligation, but the Judges have, for the last eleven years, voluntarily subjected themselves, so to speak, to an official servitude. For several years the Court met at eight o'clock in the morning, and three nights in every week were given to consultation. Now it meets at nine o'clock, and there are only two consultations a week. This change gives more time for preparation of opinions.

The Judges have no time for relaxation. Their life is one unbroken, interminable round of toil. It is a hard, unhealthy, unnatural life. It has killed two Judges, and it is remarkable that it has not killed more.

No doubt the Court would be criticised if it should return to the more leisurely methods of its predecessors, but neither official obligation nor public opinion can properly demand such strenuous and extraordinary labor. Probably no other Court of last resort does more than half the amount of work performed

by our Supreme Court. But the pace has been set, and there seems to be no prospect of change. It is even probable that more deliberate methods would cause discontents, but that does not change the fact that the labors of the Court are excessive.

The writer does not share the desire, expressed by some members of the bar, for more written opinions. The case law and literature of this country have attained the most gigantic and confusing proportions, and a lawyer's brief, nowadays, is made up too often of long lists of cases, drawn from encyclopedias, universal digests, and the thousands of State, Federal and English Reports.

In cases involving new questions, the Court writes opinions, and this is all the bar should ask. We do not publish annually more than half as many volumes of reports as the other States, and this is distinctly to our advantage. Where so many volumes are published, they necessarily contain much that has been already declared and established; the publishers are benefitted, and the lawyers are taxed, and it may be confused. We do not need more written and published opinions. Certainly we cannot consistently ask that the Supreme Court continue the tremendous labors that it has been performing for the last decade, and add to them the writing of many opinions. The Court cannot do more work. To ask it would be in the highest degree unreasonable. It is the plain duty of the bar to do everything in its power to lessen the labors of the Court—to reduce them to the point where they may be performed by reasonable diligence, and shall not demand such sacrifices as are now required. An office of so much dig-

nity ought not to be one of unremitting drudgery. In term time the Judges are literally confined at hard labor, are practically inaccessible to the bar, deprived of all social pleasures, and cut off from all affairs outside the strict routine of their purely official duties. This is not true of any other Court of equal dignity in the United States.

The present methods of the Court, however necessary or commendable from the Tennessee litigants point of view, cannot be maintained without injury to the high standing of the Court. A Court of final resort should proceed with deliberation. The finality of its decisions is reason for demanding the most careful and thorough consideration of every case presented to it. To bestow such consideration upon its cases is not always in the power of our Supreme Court under present conditions. It is true, also, that the impression is being created in other States, that the Court is too hasty in its work. We know, as a matter of fact, that its decisions command, at home, as much respect as those of preceding Courts, but we should have reasonable regard for the standing of the Court abroad, and should, if possible, remove the causes of criticism.

The Judges of the Federal Courts in Tennessee have been, without exception, good lawyers and faithful and competent officers. It has been stated in the Sketch of Judge McNairy, that Tennessee was made a Judicial District by an Act of Congress approved January 31, 1797, and that McNairy served as District Judge from that date until 1834. His successor was Morgan W. Brown, who served till 1853, and was succeeded by West H. Humphreys. In 1861

Judge Humphreys accepted the office of Confederate States Judge for Tennessee, whereupon he was impeached by the House of Representatives, at Washington, and convicted and deposed by the Senate. Connally F. Trigg was appointed in July, 1862, by President Lincoln, and served until his death in 1880. August 25, of that year, D. M. Key resigned from the Cabinet of President Hayes to accept the position, and held it until his retirement, January 26, 1894. His successor was the present most efficient incumbent, Charles D. Clark.

There were two divisions in the District at first, and the Court sat quarterly at Knoxville and at Nashville. In 1838 Congress passed an Act, providing for a Court at Jackson, in West Tennessee, which was to be held annually, in September. The three districts were presided over by one Judge until 1877, when a separate Judgeship was created for West Tennessee, and E. S. Hammond was appointed to it. He is still incumbent.

The contributions of Tennessee to the higher grades of the Federal Judiciary have been of great value. John Catron served on the supreme bench from the close of Jackson's administration to the end of the war. John Baxter was appointed Circuit Judge by President Hayes in 1877, and at his death, in April, 1886, was succeeded by Howell E. Jackson, who retained the office until March, 1893, when he was promoted to the Supreme Court. Again the Circuit Judgeship came to Tennessee, by the appointment of Horace H. Lurton, March 23, 1893. It is highly complimentary to the lawyers of Tennessee that three Circuit Judges of the United States were thus successively chosen from among them for a circuit composed of the

States of Tennessee, Kentucky, Ohio and Michigan, and that one of the three was advanced to the Supreme Court.

The United States Circuit Court of Appeals for the Sixth Circuit is now composed of Circuit Judges Taft and Lurton, and the several District Judges of the States composing the Circuit. Three of the Judges are residents of Tennessee, and another, Judge Ricks, had his training as a lawyer in this State.

It is an opinion, widely entertained, that the Court of Appeals of the Sixth Circuit is the strongest Court of its grade in the United States.

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